

(b) (5)



**Created by:**[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)

Total Messages in label:97 (20 conversations)

Created: 08-07-2018 at 11:51 AM

100

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**Attachments:**

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eScanner@oqc.u  
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eScanner@oqc.u  
(b) (5)  
(b) (5)  
(b) (5)

"Haugrud, Kevin" <jack.haugrud@sol.doi.gov>  
Tue Nov 07 2017 16:50:17 GMT-0700 (MST)  
Briana Collier <briana.collier@sol.doi.gov>  
Richard McNeer <richard.mcneer@sol.doi.gov>, Karen  
Hawbecker <karen.hawbecker@sol.doi.gov>, Gary Lawkowski  
<gary.lawkowski@sol.doi.gov>  
Twin - (b) (5)

Briana: Do we have anything from the (b) (5)

"Hawbecker, Karen" <karen.hawbecker@sol.doi.gov>  
Tue Nov 07 2017 17:47:57 GMT-0700 (MST)



**To:** Briana Collier <briana.collier@sol.doi.gov>  
**Subject:** Fwd: Twin - (b) (5)

Briana, Let's chat about this on Wednesday. Jack and I have discussed the draft opinion a bit. Thanks. --Karen

----- Forwarded message -----

**From:** Haugrud, Kevin <jack.haugrud@sol.doi.gov>  
**Date:** Tue, Nov 7, 2017 at 6:50 PM  
**Subject:** Twin - More Evidence?  
**To:** Briana Collier <briana.collier@sol.doi.gov>  
**Cc:** Richard McNeer <richard.mcneer@sol.doi.gov>, Karen Hawbecker <karen.hawbecker@sol.doi.gov>, Gary Lawkowski <gary.lawkowski@sol.doi.gov>

Briana: Do we have anything from the (b) (5)

---

**"Collier, Briana" <briana.collier@sol.doi.gov>**

**From:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**Sent:** Wed Nov 08 2017 07:50:52 GMT-0700 (MST)  
**To:** "Hawbecker, Karen" <karen.hawbecker@sol.doi.gov>  
**Subject:** Re: Twin - (b) (5)

Hi Karen. Sounds good. The immediate answer to Jack's question is - (b) (5)  
Please feel free to call me to chat when you are available. I'm still at 202-208-4853. Thank you. -Briana

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

Phone: (202) 208-4853

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On Tue, Nov 7, 2017 at 5:47 PM, Hawbecker, Karen <karen.hawbecker@sol.doi.gov> wrote:  
Briana, Let's chat about this on Wednesday. Jack and I have discussed the draft opinion a bit. Thanks. --Karen

----- Forwarded message -----

**From:** Haugrud, Kevin <jack.haugrud@sol.doi.gov>  
**Date:** Tue, Nov 7, 2017 at 6:50 PM  
**Subject:** Twin - (b) (5)  
**To:** Briana Collier <briana.collier@sol.doi.gov>

Cc: Richard McNeer <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>, Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>, Gary Lawkowski <[gary.lawkowski@sol.doi.gov](mailto:gary.lawkowski@sol.doi.gov)>

Briana: Do we have anything from the (b) (5)



---

**"Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>**

---

**From:** "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
**Sent:** Wed Nov 08 2017 10:25:42 GMT-0700 (MST)  
**To:** "Hawbecker, Karen" <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>  
**Subject:** Re: Twin - (b) (5)  
**Attachments:** 2003.05.14 ltr Lehmann Exploration Mgmt to Superior Nat'l Forest supvr re status of ACNC lease extensions (1980-2000.000460).pdf

I found (b) (5)



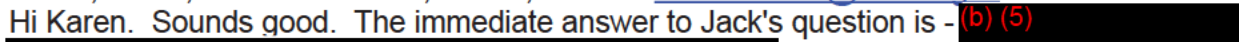
Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

Phone: (202) 208-4853

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On Wed, Nov 8, 2017 at 7:50 AM, Collier, Briana <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)> wrote:

Hi Karen. Sounds good. The immediate answer to Jack's question is - (b) (5)



Please feel free to call me to chat when you are available. I'm still at 202-208-4853. Thank you. -Briana

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
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Albuquerque, NM 87102

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On Tue, Nov 7, 2017 at 5:47 PM, Hawbecker, Karen <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)> wrote:  
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----- Forwarded message -----

From: **Haugrud, Kevin** <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)>

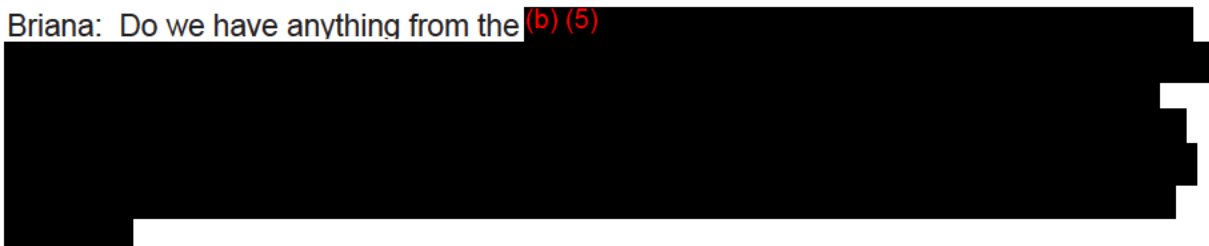
Date: Tue, Nov 7, 2017 at 6:50 PM

Subject: Twin - More Evidence?

To: Briana Collier <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>

Cc: Richard McNeer <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>, Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>, Gary Lawkowski <[gary.lawkowski@sol.doi.gov](mailto:gary.lawkowski@sol.doi.gov)>

Briana: Do we have anything from the (b) (5)



---

**"Collier, Briana"** <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>

**From:** "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
**Sent:** Wed Nov 08 2017 13:32:54 GMT-0700 (MST)  
**To:** "Haugrud, Kevin" <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)>  
Richard McNeer <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>, Karen  
**CC:** Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>, Gary Lawkowski  
<[gary.lawkowski@sol.doi.gov](mailto:gary.lawkowski@sol.doi.gov)>  
**Subject:** Re: Twin - (b) (5)  
**Attachments:** 2003.05.14 ltr Lehmann Exploration Mgmt to Superior Nat'l Forest  
supvr re status of ACNC lease extensions (1980-  
2000.000460).pdf

Hi Jack,

(b) (5)



helpful.

Also, Karen and I discussed how (b) (5)

Please let me know if this raises other questions for you.

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

Phone: (202) 208-4853

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On Tue, Nov 7, 2017 at 4:50 PM, Haugrud, Kevin <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)> wrote:  
Briana: Do we have anything from the 1999-2004 era that would more conclusively show that BLM intended to incorporate the 1966 lease terms into the 2004 leases. The two 1999 and 2003 docs that we currently cite are ambiguous themselves on what is meant - the 1999 BLM one just seems to unambiguously say no one objects to renewal, not that they intend to include all terms of the 1966 leases, and the 2003 FS one doesn't describe what "terms, conditions, and stipulations" it is referring to. Is there anything else out there that helps us?

---

**"Haugrud, Kevin" <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)>**

**From:** "Haugrud, Kevin" <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)>  
**Sent:** Wed Nov 08 2017 13:43:17 GMT-0700 (MST)  
**To:** "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
Richard McNeer <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>, Karen  
**CC:** Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>, Gary Lawkowski  
<[gary.lawkowski@sol.doi.gov](mailto:gary.lawkowski@sol.doi.gov)>  
**Subject:** Re: Twin - (b) (5)

Thanks Briana. I think it would be helpful to check with USDA and confirm whether they have anything useful.

On Wed, Nov 8, 2017 at 3:32 PM, Collier, Briana <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)> wrote:  
Hi Jack,

(b) (5)

Also, Karen and I discussed how (b) (5)

Please let me know if this raises other questions for you.

Briana Collier  
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On Tue, Nov 7, 2017 at 4:50 PM, Haugrud, Kevin <jack.haugrud@sol.doi.gov> wrote:

Briana: Do we have anything from the (b) (5)

---

**"Collier, Briana" <briana.collier@sol.doi.gov>**

**From:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**Sent:** Wed Nov 08 2017 15:37:17 GMT-0700 (MST)  
"HENDERSON, PAMELA P. - OGC"  
<PAMELA.HENDERSON@ogc.usda.gov>, "Vukelich, Vincent - OGC" <VINCE.VUKELICH@ogc.usda.gov>, "Franklin, Jessica - OGC" <Jessica.Franklin@ogc.usda.gov>, "Vandlik, John - OGC" <JOHN.VANDLIK@ogc.usda.gov>  
**To:**  
**Subject:** Fwd: Twin - (b) (5)  
**Attachments:** 2003.05.14 ltr Lehmann Exploration Mgmt to Superior Nat'l Forest supvr re status of ACNC lease extensions (1980-2000.000460).pdf

Hi all,

I'm not sure who of you at USDA OGC (b) (5)

(b) (5)

Thanks very much for your assistance,  
Briana

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
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**"Vandlik, John - OGC" <JOHN.VANDLIK@ogc.usda.gov>**

---

**From:** "Vandlik, John - OGC" <JOHN.VANDLIK@ogc.usda.gov>  
**Sent:** Thu Nov 09 2017 09:11:08 GMT-0700 (MST)  
**To:** "Collier, Briana" <briana.collier@sol.doi.gov>, "HENDERSON, PAMELA P. - OGC" <PAMELA.HENDERSON@ogc.usda.gov>, "Vukelich, Vincent - OGC" <VINCE.VUKELICH@ogc.usda.gov>, "Franklin, Jessica - OGC" <Jessica.Franklin@ogc.usda.gov>  
**Subject:** RE: Twin - (b) (5)  
**Attachments:** image001.png

Hi Briana, I will forward your info request to FS mineral folks here in MKE and ask that they look in their files and engage Forest on it too.



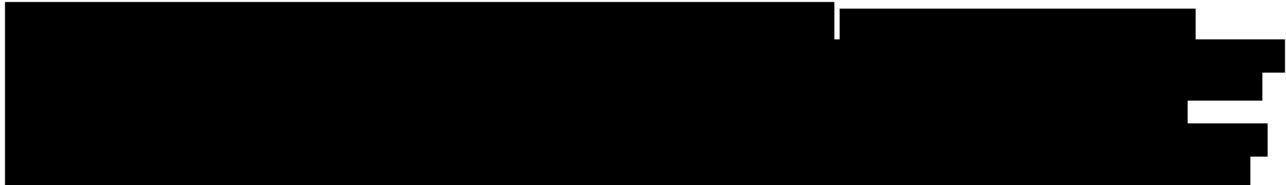
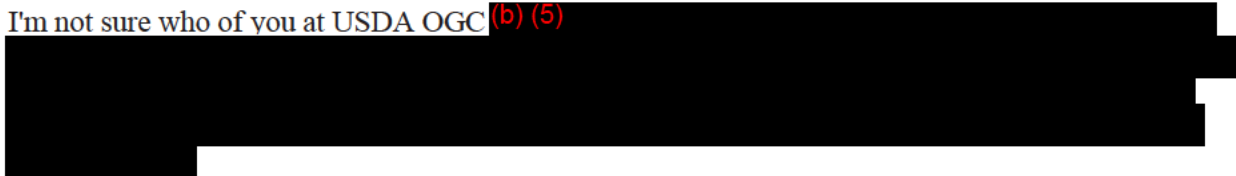
John M. Vandlik  
Senior Counsel  
Milwaukee Office  
*Office of the General Counsel*  
U.S. Department of Agriculture  
626 E. Wisconsin Avenue, Suite 601  
Milwaukee, WI 53202  
☎ 414-297-3276 (Voice)  
📱 414-335-4417 (Mobile)  
✉ [John.Vandlik@ogc.usda.gov](mailto:John.Vandlik@ogc.usda.gov)

**From:** Collier, Briana [mailto:briana.collier@sol.doi.gov]  
**Sent:** Wednesday, November 08, 2017 4:37 PM  
**To:** HENDERSON, PAMELA P. - OGC <PAMELA.HENDERSON@OGC.USDA.GOV>; Vukelich, Vincent - OGC <VINCE.VUKELICH@OGC.USDA.GOV>; Franklin, Jessica - OGC <Jessica.Franklin@ogc.usda.gov>; Vandlik, John - OGC <JOHN.VANDLIK@OGC.USDA.GOV>  
**Subject:** Fwd: Twin - (b) (5)



Hi all,

I'm not sure who of you at USDA OGC (b) (5)



Thanks very much for your assistance,  
Briana

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
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**"Collier, Briana" <briana.collier@sol.doi.gov>**

---

**From:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**Sent:** Thu Nov 09 2017 09:23:44 GMT-0700 (MST)  
**To:** "Vandlik, John - OGC" <JOHN.VANDLIK@ogc.usda.gov>  
"HENDERSON, PAMELA P. - OGC"  
**CC:** <PAMELA.HENDERSON@ogc.usda.gov>, "Vukelich, Vincent - OGC" <VINCE.VUKELICH@ogc.usda.gov>, "Franklin, Jessica - OGC" <Jessica.Franklin@ogc.usda.gov>  
**Subject:** Re: Twin - (b) (5)  
**Attachments:** image001.png

Great. Thank you John.

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

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On Thu, Nov 9, 2017 at 9:11 AM, Vandlik, John - OGC <[JOHN.VANDLIK@ogc.usda.gov](mailto:JOHN.VANDLIK@ogc.usda.gov)> wrote:

Hi Briana, I will forward your info request to FS mineral folks here in MKE and ask that they look in their files and engage Forest on it too.



John M. Vandlik  
Senior Counsel  
Milwaukee Office  
Office of the General Counsel  
U.S. Department of Agriculture  
[626 E. Wisconsin Avenue, Suite 601](#)  
[Milwaukee, WI 53202](#)  
☎ 414-297-3276 (Voice)  
📱 414-335-4417 (Mobile)  
✉ [John.Vandlik@ogc.usda.gov](mailto:John.Vandlik@ogc.usda.gov)

**From:** Collier, Briana [mailto:[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)]  
**Sent:** Wednesday, November 08, 2017 4:37 PM  
**To:** HENDERSON, PAMELA P. - OGC <[PAMELA.HENDERSON@OGC.USDA.GOV](mailto:PAMELA.HENDERSON@OGC.USDA.GOV)>; Vukelich, Vincent - OGC <[VINCE.VUKELICH@OGC.USDA.GOV](mailto:VINCE.VUKELICH@OGC.USDA.GOV)>; Franklin, Jessica - OGC <[Jessica.Franklin@ogc.usda.gov](mailto:Jessica.Franklin@ogc.usda.gov)>; Vandlik, John - OGC <[JOHN.VANDLIK@OGC.USDA.GOV](mailto:JOHN.VANDLIK@OGC.USDA.GOV)>  
**Subject:** Fwd: Twin - (b) (5)

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---

**"HENDERSON, PAMELA P. - OGC" <PAMELA.HENDERSON@ogc.usda.gov>**

---

**From:** "HENDERSON, PAMELA P. - OGC"  
<PAMELA.HENDERSON@ogc.usda.gov>  
**Sent:** Thu Nov 09 2017 09:27:01 GMT-0700 (MST)  
"Collier, Briana" <briana.collier@sol.doi.gov>, "Vukelich, Vincent - OGC" <VINCE.VUKELICH@ogc.usda.gov>, "Franklin, Jessica - OGC" <Jessica.Franklin@ogc.usda.gov>, "Vandlik, John - OGC" <JOHN.VANDLIK@ogc.usda.gov>  
**To:**  
**CC:** "Mulach, Ronald - OGC" <RONALD.MULACH@ogc.usda.gov>  
**Subject:** RE: Twin - (b) (5)  
**Attachments:** RF's No Objection to 2004 Renewals.pdf RF's Consent to 1989 Lease Renewals.pdf

The FS's most comprehensive set of records about these lease resides either in the FS's Region 9 office in Milwaukee or in the office of either the Forest Supervisor or the District Ranger in Minnesota.

But in any case, I thin (b) (5)

(b) (5)

John, is my recollection correct?

Pamela Henderson  
Senior Counsel  
Natural Resources and Environment Division  
Office of the General Counsel  
U.S. Department of Agriculture  
1400 Independence Ave S.W. Room 3338-S  
Washington, DC 20250-1400  
☎ 202-720-2515 (Voice)  
☎ 844-354-1119 (Fax)  
✉ [Pamela.Henderson@ogc.usda.gov](mailto:Pamela.Henderson@ogc.usda.gov)

**From:** Collier, Briana [mailto:briana.collier@sol.doi.gov]  
**Sent:** Wednesday, November 8, 2017 5:37 PM  
**To:** HENDERSON, PAMELA P. - OGC <PAMELA.HENDERSON@OGC.USDA.GOV>; Vukelich, Vincent - OGC <VINCE.VUKELICH@OGC.USDA.GOV>; Franklin, Jessica - OGC <Jessica.Franklin@ogc.usda.gov>; Vandlik, John - OGC <JOHN.VANDLIK@OGC.USDA.GOV>  
**Subject:** Fwd: Twin - (b) (5)

Hi all,

I'm not sure who of you at USDA OGC (b) (5)

[REDACTED]

[REDACTED]

Thanks very much for your assistance,  
Briana

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

Phone: (202) 208-4853

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---

**"Vandlik, John - OGC" <JOHN.VANDLIK@ogc.usda.gov>**

**From:** "Vandlik, John - OGC" <JOHN.VANDLIK@ogc.usda.gov>  
**Sent:** Thu Nov 09 2017 09:56:20 GMT-0700 (MST)  
"HENDERSON, PAMELA P. - OGC"

**To:** <PAMELA.HENDERSON@ogc.usda.gov>, "Collier, Briana"  
<briana.collier@sol.doi.gov>, "Vukelich, Vincent - OGC"  
<VINCE.VUKELICH@ogc.usda.gov>, "Franklin, Jessica - OGC"  
<Jessica.Franklin@ogc.usda.gov>  
**CC:** "Mulach, Ronald - OGC" <RONALD.MULACH@ogc.usda.gov>  
**Subject:** RE: Twin - (b) (5)  
**Attachments:** image001.png IncoBLMRO2004.pdf

FS will be searching for (b) (5), and it sounds like BLM's MKE office may have docs too.

(b) (5)



John M. Vandlik  
Senior Counsel  
Milwaukee Office  
*Office of the General Counsel*  
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626 E. Wisconsin Avenue, Suite 601  
Milwaukee, WI 53202  
☎ 414-297-3276 (Voice)  
📱 414-335-4417 (Mobile)  
✉ [John.Vandlik@ogc.usda.gov](mailto:John.Vandlik@ogc.usda.gov)

---

**From:** HENDERSON, PAMELA P. - OGC  
**Sent:** Thursday, November 09, 2017 10:27 AM  
**To:** Collier, Briana <briana.collier@sol.doi.gov>; Vukelich, Vincent - OGC  
<VINCE.VUKELICH@OGC.USDA.GOV>; Franklin, Jessica - OGC <Jessica.Franklin@ogc.usda.gov>;  
Vandlik, John - OGC <JOHN.VANDLIK@OGC.USDA.GOV>  
**Cc:** Mulach, Ronald - OGC <RONALD.MULACH@OGC.USDA.GOV>  
**Subject:** RE: Twin - (b) (5)

The FS's most comprehensive set of records about these lease resides either in the FS's Region 9 office in Milwaukee or in the office of either the Forest Supervisor or the District Ranger in Minnesota.

But in any case, I think (b) (5)

(b) (5)

John, is my recollection correct?

Pamela Henderson  
Senior Counsel  
Natural Resources and Environment Division  
*Office of the General Counsel*  
U.S. Department of Agriculture  
1400 Independence Ave S.W. Room 3338-S  
Washington, DC 20250-1400  
☎ 202-720-2515 (Voice)  
📠 844-354-1119 (Fax)  
✉ [Pamela.Henderson@ogc.usda.gov](mailto:Pamela.Henderson@ogc.usda.gov)

---

**From:** Collier, Briana [<mailto:briana.collier@sol.doi.gov>]  
**Sent:** Wednesday, November 8, 2017 5:37 PM  
**To:** HENDERSON, PAMELA P. - OGC <[PAMELA.HENDERSON@OGC.USDA.GOV](mailto:PAMELA.HENDERSON@OGC.USDA.GOV)>; Vukelich,  
Vincent - OGC <[VINCE.VUKELICH@OGC.USDA.GOV](mailto:VINCE.VUKELICH@OGC.USDA.GOV)>; Franklin, Jessica - OGC

<Jessica.Franklin@ogc.usda.gov>; Vandlik, John - OGC <JOHN.VANDLIK@OGC.USDA.GOV>

**Subject:** Fwd: Twin - (b) (5)

Hi all,

I'm not sure who of you at USDA OGC (b) (5)

[REDACTED]

[REDACTED]

(b) (5)

Thanks very much for your assistance,  
Briana

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

Phone: (202) 208-4853

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**"Vandlik, John - OGC" <JOHN.VANDLIK@ogc.usda.gov>**

---

**From:** "Vandlik, John - OGC" <JOHN.VANDLIK@ogc.usda.gov>  
**Sent:** Wed Nov 15 2017 12:39:30 GMT-0700 (MST)  
**To:** "Collier, Briana" <briana.collier@sol.doi.gov>, "HENDERSON, PAMELA P. - OGC" <PAMELA.HENDERSON@ogc.usda.gov>, "Vukelich, Vincent - OGC" <VINCE.VUKELICH@ogc.usda.gov>, "Franklin, Jessica - OGC" <Jessica.Franklin@ogc.usda.gov>  
**Subject:** RE: Twin - (b) (5)

**Attachments:**

image001.png  
MilwaukeeScanner@ogc.usda.gov\_20171115\_103839.pdf  
MilwaukeeScanner@ogc.usda.gov\_20171115\_100131.pdf

Hi Brianna,

In an ironic twist, when I asked FS for (b) (5)

[REDACTED]

[REDACTED]

[REDACTED] --John



John M. Vandlik  
Senior Counsel  
Milwaukee Office  
*Office of the General Counsel*  
U.S. Department of Agriculture  
626 E. Wisconsin Avenue, Suite 601  
Milwaukee, WI 53202  
☎ 414-297-3276 (Voice)  
📱 414-335-4417 (Mobile)  
✉ [John.Vandlik@ogc.usda.gov](mailto:John.Vandlik@ogc.usda.gov)

---

**From:** Vandlik, John - OGC

**Sent:** Thursday, November 09, 2017 10:10 AM

**To:** 'Collier, Briana' <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>; HENDERSON, PAMELA P. - OGC <[PAMELA.HENDERSON@OGC.USDA.GOV](mailto:PAMELA.HENDERSON@OGC.USDA.GOV)>; Vukelich, Vincent - OGC <[VINCE.VUKELICH@OGC.USDA.GOV](mailto:VINCE.VUKELICH@OGC.USDA.GOV)>; Franklin, Jessica - OGC <[Jessica.Franklin@ogc.usda.gov](mailto:Jessica.Franklin@ogc.usda.gov)>

**Subject:** RE: Twin - (b) (5)

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✉ [John.Vandlik@ogc.usda.gov](mailto:John.Vandlik@ogc.usda.gov)

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**From:** Collier, Briana [<mailto:briana.collier@sol.doi.gov>]

**Sent:** Wednesday, November 08, 2017 4:37 PM

**To:** HENDERSON, PAMELA P. - OGC <[PAMELA.HENDERSON@OGC.USDA.GOV](mailto:PAMELA.HENDERSON@OGC.USDA.GOV)>; Vukelich, Vincent - OGC <[VINCE.VUKELICH@OGC.USDA.GOV](mailto:VINCE.VUKELICH@OGC.USDA.GOV)>; Franklin, Jessica - OGC <[Jessica.Franklin@ogc.usda.gov](mailto:Jessica.Franklin@ogc.usda.gov)>; Vandlik, John - OGC <[JOHN.VANDLIK@OGC.USDA.GOV](mailto:JOHN.VANDLIK@OGC.USDA.GOV)>

**Subject:** Fwd: Twin - More Evidence?

Hi all,

I'm not sure who of you at USDA OGC (b) (5)

[REDACTED]

[REDACTED]

Thanks very much for your assistance,  
Briana

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
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**"Collier, Briana" <briana.collier@sol.doi.gov>**

---

**From:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**Sent:** Wed Nov 15 2017 15:08:38 GMT-0700 (MST)  
**To:** "Vandlik, John - OGC" <JOHN.VANDLIK@ogc.usda.gov>  
"HENDERSON, PAMELA P. - OGC"  
<PAMELA.HENDERSON@ogc.usda.gov>, "Vukelich, Vincent -  
**CC:** OGC" <VINCE.VUKELICH@ogc.usda.gov>, "Franklin, Jessica -  
OGC" <Jessica.Franklin@ogc.usda.gov>  
**Subject:** Re: Twin - (b) (5)



**Attachments:** image001.png

Sounds good. Thank you John!

Briana Collier  
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[REDACTED]

[REDACTED]

[REDACTED] --John



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📱 414-335-4417 (Mobile)  
✉ [John.Vandlik@ogc.usda.gov](mailto:John.Vandlik@ogc.usda.gov)

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✉ [John.Vandlik@ogc.usda.gov](mailto:John.Vandlik@ogc.usda.gov)

**From:** Collier, Briana [<mailto:briana.collier@sol.doi.gov>]  
**Sent:** Wednesday, November 08, 2017 4:37 PM  
**To:** HENDERSON, PAMELA P. - OGC <[PAMELA.HENDERSON@OGC.USDA.GOV](mailto:PAMELA.HENDERSON@OGC.USDA.GOV)>; Vukelich, Vincent - OGC <[VINCE.VUKELICH@OGC.USDA.GOV](mailto:VINCE.VUKELICH@OGC.USDA.GOV)>; Franklin, Jessica - OGC <[Jessica.Franklin@ogc.usda.gov](mailto:Jessica.Franklin@ogc.usda.gov)>; Vandlik, John - OGC <[JOHN.VANDLIK@OGC.USDA.GOV](mailto:JOHN.VANDLIK@OGC.USDA.GOV)>  
**Subject:** Fwd: Twin - (b) (5)

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I'm not sure who of you at USDA OGC (b) (5)

[REDACTED]

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| and delete the email immediately.

**"Vandlik, John - OGC" <JOHN.VANDLIK@ogc.usda.gov>**

---

**From:** "Vandlik, John - OGC" <JOHN.VANDLIK@ogc.usda.gov>  
**Sent:** Tue Nov 28 2017 13:52:02 GMT-0700 (MST)  
**To:** "Collier, Briana" <briana.collier@sol.doi.gov>  
"HENDERSON, PAMELA P. - OGC"  
**CC:** <PAMELA.HENDERSON@ogc.usda.gov>, "Vukelich, Vincent - OGC" <VINCE.VUKELICH@ogc.usda.gov>, "Franklin, Jessica - OGC" <Jessica.Franklin@ogc.usda.gov>  
**Subject:** RE: Twin - (b) (5)  
**Attachments:** image001.png

Hi Briana, Just wanted to follow up on this....FS couldn't find anything in its files that was related to (b) (5).



John M. Vandlik  
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📱 414-335-4417 (Mobile)  
✉ [John.Vandlik@ogc.usda.gov](mailto:John.Vandlik@ogc.usda.gov)

**From:** Collier, Briana [mailto:briana.collier@sol.doi.gov]  
**Sent:** Wednesday, November 15, 2017 4:09 PM  
**To:** Vandlik, John - OGC <JOHN.VANDLIK@OGC.USDA.GOV>  
**Cc:** HENDERSON, PAMELA P. - OGC <PAMELA.HENDERSON@OGC.USDA.GOV>; Vukelich, Vincent - OGC <VINCE.VUKELICH@OGC.USDA.GOV>; Franklin, Jessica - OGC <Jessica.Franklin@ogc.usda.gov>  
**Subject:** Re: Twin - (b) (5)

Sounds good. Thank you John!

Briana Collier  
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On Wed, Nov 15, 2017 at 12:39 PM, Vandlik, John - OGC <[JOHN.VANDLIK@ogc.usda.gov](mailto:JOHN.VANDLIK@ogc.usda.gov)> wrote:

Hi Brianna,

In an ironic twist, when I asked FS for (b) (5)

[REDACTED]

[REDACTED]

[REDACTED] --John

USD/  
Email  
Signature

John M. Vandlik  
Senior Counsel  
Milwaukee Office  
*Office of the General Counsel*  
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**From:** Vandlik, John - OGC

**Sent:** Thursday, November 09, 2017 10:10 AM

**To:** 'Collier, Briana' <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>; HENDERSON, PAMELA P. - OGC

<[PAMELA.HENDERSON@OGC.USDA.GOV](mailto:PAMELA.HENDERSON@OGC.USDA.GOV)>; Vukelich, Vincent - OGC

<[VINCE.VUKELICH@OGC.USDA.GOV](mailto:VINCE.VUKELICH@OGC.USDA.GOV)>; Franklin, Jessica - OGC <[Jessica.Franklin@ogc.usda.gov](mailto:Jessica.Franklin@ogc.usda.gov)>

**Subject:** RE: Twin - (b) (5)

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USD/  
Email  
Signature

John M. Vandlik  
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Milwaukee Office  
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Milwaukee, WI 53202  
☎ 414-297-3276 (Voice)  
📱 414-335-4417 (Mobile)  
✉ [John.Vandlik@ogc.usda.gov](mailto:John.Vandlik@ogc.usda.gov)

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**From:** Collier, Briana [<mailto:briana.collier@sol.doi.gov>]

**Sent:** Wednesday, November 08, 2017 4:37 PM

**To:** HENDERSON, PAMELA P. - OGC <[PAMELA.HENDERSON@OGC.USDA.GOV](mailto:PAMELA.HENDERSON@OGC.USDA.GOV)>; Vukelich,

Vincent - OGC <[VINCE.VUKELICH@OGC.USDA.GOV](mailto:VINCE.VUKELICH@OGC.USDA.GOV)>; Franklin, Jessica - OGC

<[Jessica.Franklin@ogc.usda.gov](mailto:Jessica.Franklin@ogc.usda.gov)>; Vandlik, John - OGC <[JOHN.VANDLIK@OGC.USDA.GOV](mailto:JOHN.VANDLIK@OGC.USDA.GOV)>

**Subject:** Fwd: Twin - (b) (5)

Hi all,

I'm not sure who of you at USDA OGC (b) (5)

[REDACTED]

[REDACTED]

Thanks very much for your assistance,  
Briana

Briana Collier  
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U.S. Department of the Interior, Office of the Solicitor  
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**"Collier, Briana" <briana.collier@sol.doi.gov>**

---

**From:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**Sent:** Tue Nov 28 2017 13:56:14 GMT-0700 (MST)  
**To:** "Vandlik, John - OGC" <JOHN.VANDLIK@ogc.usda.gov>  
"HENDERSON, PAMELA P. - OGC"  
<PAMELA.HENDERSON@ogc.usda.gov>, "Vukelich, Vincent -  
**CC:** OGC" <VINCE.VUKELICH@ogc.usda.gov>, "Franklin, Jessica -  
OGC" <Jessica.Franklin@ogc.usda.gov>  
**Subject:** Re: Twin - (b) (5)  
**Attachments:** image001.png

Okay, great. Thanks so much for running that down, John.

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
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On Tue, Nov 28, 2017 at 1:52 PM, Vandlik, John - OGC <[JOHN.VANDLIK@ogc.usda.gov](mailto:JOHN.VANDLIK@ogc.usda.gov)> wrote:

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**From:** Collier, Briana [mailto:[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)]  
**Sent:** Wednesday, November 15, 2017 4:09 PM  
**To:** Vandlik, John - OGC <[JOHN.VANDLIK@OGC.USDA.GOV](mailto:JOHN.VANDLIK@OGC.USDA.GOV)>  
**Cc:** HENDERSON, PAMELA P. - OGC <[PAMELA.HENDERSON@OGC.USDA.GOV](mailto:PAMELA.HENDERSON@OGC.USDA.GOV)>; Vukelich, Vincent - OGC <[VINCE.VUKELICH@OGC.USDA.GOV](mailto:VINCE.VUKELICH@OGC.USDA.GOV)>; Franklin, Jessica - OGC <[Jessica.Franklin@ogc.usda.gov](mailto:Jessica.Franklin@ogc.usda.gov)>  
**Subject:** Re: Twin - (b) (5)

Sounds good. Thank you John!

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[REDACTED]

[REDACTED]

[REDACTED] --John

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Email  
C:

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Albuquerque, NM 87102

Phone: (202) 208-4853

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**Lehmann Exploration Management Inc.  
Geologists**

**Suite 622 Plymouth Building  
12 South 6th Street  
Minneapolis, MN 55402  
Tel. 612-338-5584  
Cellular 612-859-4159  
Fax 612-338-5457  
email [geomine@worldnet.att.net](mailto:geomine@worldnet.att.net)  
website [www.pge-birchlake.com](http://www.pge-birchlake.com)**

**20bl-incleases-05-14-03**

May 14, 2003

Mr. James Sanders, Superintendent  
Superior National Forest  
U.S. Forest Service  
8901 Grand Avenue Place  
Duluth, MN 55808

Dear Mr. Sanders:

Thanks you for agreeing to meet with me at 10:30 AM May 27<sup>th</sup> at your offices in Duluth.

By way of background for the meeting, as you know, Beaver Bay Joint Venture, has been exploring and delineating a deposit of platinum group metals and copper and nickel at Birch Lake. Lehmann Exploration Management is the operator of the joint venture. We are currently engaged in discussions with American Copper Nickel Company (ACNC), a wholly owned subsidiary of INCO Ltd., regarding possibly mutually beneficial relationships between our two groups.

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We would like to discuss and clarify this situation with you.

I took the liberty of advising BLM's office in Rolla of the meeting and I believe that they intend to have a representative present. I hope that is acceptable to you.

I look forward to our discussion.

Sincerely yours,

  
Ernest K. Lehmann

cc: Philip Rush  
Joy Moseley

John Romito ✓  
L. F. Hill

Walter G. Lehmann

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Joy Moseley

John Romito ✓  
L. F. Hill

Walter G. Lehmann



United States  
Department of  
Agriculture

Forest  
Service

Superior National  
Forest

8901 Grand Ave. PL.  
Duluth, MN 55808  
Phone: (218) 626-4300  
Fax: (218) 626-4398

File Code: 2820

Date: June 25, 2003

Route To:

Subject: Renewal of BLM Leases ES-1352 & 1353

(b) (5)

There are no changes in land use in the lease area that would require modifications to the current stipulations.

The terms, conditions and stipulations have been reviewed, and it has been determined that they are sufficient to protect the resources of the United States. Any and all operations are subject to the Forest Plan and its amendments, and the approval of an operating plan by the authorized officer. In addition, any and all operations will be subject to an analysis under the National Environmental Policy Act prior to the commencement of any operations.

I therefore consent to the renewal of these leases.

/s/James W. Sanders  
JAMES W. SANDERS  
Forest Supervisor

cc:  
Kawishiwi District Ranger





United States  
Department of  
Agriculture

Forest  
Service

Eastern Region

310 West Wisconsin Ave.  
Suite 580  
Milwaukee, WI 53203

File Code: 2820-2

Route To:

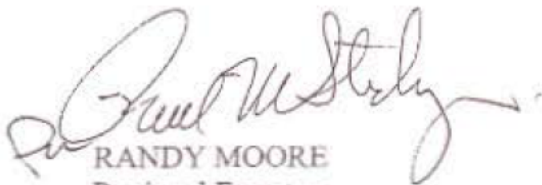
Date: JUL 18 2003

Subject: Renewal of Preference Right Leases MNES 1352 and MNES 1353

(b) (5)

The terms, conditions and stipulations have been reviewed, and it has been determined that they are sufficient to protect the resources of the United States.

Any and all operations are subject to the Forest Plan and its amendments, and the approval of an operating plan by the authorized officer. In addition, any and all operations will be subject to an analysis under the National Environmental Policy Act prior to the commencement of any operations.



RANDY MOORE  
Regional Forester

cc:

Paul Stockinger  
Randy Rabideaux  
Stuart Behling  
Cleo B Ashworth  
Tim Best  
John Romito



United States  
Department of  
Agriculture

Forest  
Service

Eastern  
Region

310 West Wisconsin Avenue  
Milwaukee, Wisconsin 53203

Reply to: 2820

Date:

June 19, 1987

Subject: ELM Preference Right Leases, ES 01352 and [REDACTED]  
Inco Alloys International, Inc. (Superior NF, WI)

(b) (5)

[REDACTED]

adequate.

This decision is supported by the Superior National Forest Plan and Environmental Impact Statement, dated June 6, 1986, a copy of which is on file at your office. No further analysis is necessary.

The lands are not located within any areas identified in the Department of the Interior and Related Agencies Appropriation Act for FY 87, P.L. 99-500 (10/18/86).

*Floyd J. Marita*

FLOYD J. MARITA  
Regional Forester

cc:

Superior NF  
MKE District Office

Inco Alloys International, Inc. - FOR YOUR INFORMATION ONLY

CWilliams

---

Caring for the Land and Serving the People

Reply to: 2820

Date: JUN 15 1967

(b) (5)



regarding termination of bonds for these leases in Minnesota (Superior NF).

We recommend against termination of bonds for ES 01352 and ES 01353.

Current reclamation needs for these leases include permanent closure of a vertical shaft measuring 10'x18'x1000', and restoration of about ten acres of cleared land associated with the shaft and a surface rock sampling area.

We can recommend for bond termination only after reclamation is complete, or the needed work is covered under a different bond.

*Jack L. Craven*  
for  
GORDON H. SMALL  
Director of Lands, Watershed  
and Minerals Management

cc:

Superior NF  
BLM - Mke

JJacks:es

4

MNES 1352



United States  
Department  
of Agriculture

Forest  
Service

Eastern Region

310 West Wisconsin Ave.  
Suite 580  
Milwaukee, WI 53203

File Code: 2820

Route To: \*

Date: April 12, 1999

Subject: Preference Right Leases - MNES 1352 and MNES 1353

(b) (5)

additional stipulations if necessary.

*Barbara Bieniewski*  
BARBARA BIENIEWSKI  
Natural Resources Team

Enclosure

cc:

Cleo Ashworth  
Stu Behling



Caring for the Land and Serving People

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United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Eastern States

7450 Boston Boulevard

Springfield, Virginia 22153

Williams



(b) (5)

Mr. Floyd J. Marita  
Regional Forester  
USDA Forest Service  
Eastern Regional Office  
310 West Wisconsin Avenue  
Milwaukee, Wisconsin 53203

Dear Mr. Marita:

This office received applications from the American Copper & Nickel Company requesting the renewal of the subject preference right leases.

Please provide this office with your recommendation regarding the renewal request and additional stipulations if necessary.

The leases are due for renewal July 1, 1999.

Sincerely,

T. Darnell Best  
Land Law Examiner, Minerals Adjudication  
Branch of Use Authorizations  
Division of Resources Planning, Use  
and Protection

enclosure



WILD HORSES & BURROS • CADASTRAL SURVEY • GENERAL LAND OFFICE RECORDS • MINERALS • RENEWABLE RESOURCES



**INCO**

Joy K. Moseley

(b) (5)



Springfield, VA 22150

**RE: Lease Renewals M89-001352 and M89-001353**

Dear Mr. Best,

American Copper & Nickel Company, Inc. hereby makes application for renewal of Federal Leases #M89-001352 and #M89-001353 with an effective date of July 1, 1999. As required by 43 CFR Ch. 11 SS 3566.1 a check in the amount of \$48,660.00 is enclosed as the payment due under the leases July 1, 1999.

Also enclosed is another check in the amount of \$50.00 (\$25.00 for each lease) as filing fee for the two leases.

Surety Continuation Certificates #2250 19 048766, #2250 42 048766 and #2250 41 048766 are enclosed for your records.

Please call me at the phone number listed below if you have any questions or concerns I have not addressed.

Sincerely,  
American Copper & Nickel Company, Inc.

Joy K. Moseley

Attach: 2 checks/3 Certificates

CC: P. Rush  
Wallbridge Mining Co. Ltd.

**AMERICAN COPPER & NICKEL COMPANY, INC.**  
922 19th Street - Golden, CO 80401-2307  
Phone: (303)215-0151 Fax: (303)215-0157

BUREAU OF LAND MGMT.  
EASTERN STATES  
11/7/99

ELLU, VA  
P 2:47



3-29-2005  
Graham 3/29/05  
MS  
3/30/05

(b) (5)

Beaver Bay Joint Venture	:	Hardrock
c/o Lehmann Expln. Mgmt. Inc.	:	Preference Right Leases
12 South 6 <sup>th</sup> St. Suite 622	:	
Minneapolis, Minnesota 55402	:	

Assignment of Record Title Approved

On April 7, 2004, this office received assignments conveying 100% record title interest from American Copper and Nickel Company Inc. to Beaver Bay Joint Venture for Preference Right Leases MNES 1352 and MNES 1353.

Statewide Bond Number ESB000070 in the amount of \$25,000 is on file, and is in compliance with 43 CFR 3504, which adequately covers reclamation costs for the leases. All requirements as set forth in 43 CFR 3512 have been met.

The assignments are approved effective April 1, 2005 and are subject to the existing terms and conditions of the leases.

/s/ STEVE GOBAT

Steve Gobat  
Deputy State Director,  
Division of Natural Resources

cc: ES RF: MFO      930 RF      932:TDBest:3/17/2005:(ASMT-APPRVD-PRL)

Lehmann Exploration Management Inc.  
Geologists

Suite 622 Plymouth Building  
12 South 6th Street  
Minneapolis, MN 55402  
Tel. 612-338-5584

(b) (5)



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Superior National Forest  
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8901 Grand Avenue Place  
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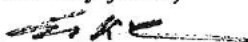
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Ernest K. Lehmann

cc: Philip Rush  
Joy Moseley

John Romito ✓  
L. F. Hill

Walter G. Lehmann

(b) (5)



**Created by:**[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)

Total Messages in label:97 (20 conversations)

Created: 08-07-2018 at 11:52 AM

# Conversation Contents

## Twin Metals - Draft M-Opinion

### Attachments:

17. Twin Metals - Draft M-Opinion/1.1 Twin Metals -- Draft 11 24 17.docx

## "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

---

**From:** "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>  
**Sent:** Mon Nov 27 2017 09:39:33 GMT-0700 (MST)  
**To:** "Lisa Russell (ENRD)" <Lisa.Russell@usdoj.gov>, "Bosshardt, Stacey (ENRD)" <Stacey.Bosshardt@usdoj.gov>, "Boronow, Clare (ENRD)" <Clare.Boronow@usdoj.gov>, "Piropato, Marissa (ENRD)" <Marissa.Piropato@usdoj.gov>, Sean.C.Duffy@usdoj.gov  
**CC:** Briana Collier <briana.collier@sol.doi.gov>, Richard McNeer <richard.mcneer@sol.doi.gov>, Karen Hawbecker <karen.hawbecker@sol.doi.gov>  
**Subject:** Twin Metals - Draft M-Opinion  
**Attachments:** Twin Metals -- Draft 11 24 17.docx

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## "Bosshardt, Stacey (ENRD)" <Stacey.Bosshardt@usdoj.gov>

---

**From:** "Bosshardt, Stacey (ENRD)" <Stacey.Bosshardt@usdoj.gov>  
**Sent:** Tue Nov 28 2017 11:35:46 GMT-0700 (MST)  
**To:** "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>, "Russell, Lisa (ENRD)" <Lisa.Russell@usdoj.gov>, "Boronow, Clare (ENRD)" <Clare.Boronow@usdoj.gov>, "Piropato, Marissa (ENRD)" <Marissa.Piropato@usdoj.gov>, "Duffy, Sean C. (ENRD)" <Sean.C.Duffy@usdoj.gov>  
**CC:** Briana Collier <briana.collier@sol.doi.gov>, Richard McNeer <richard.mcneer@sol.doi.gov>, Karen Hawbecker <karen.hawbecker@sol.doi.gov>  
**Subject:** RE: Twin Metals - Draft M-Opinion

Thanks, Jack. We reached out to Karen but she is out of the office until Thursday –would you prefer to set up a time before then to get our thoughts on the draft, or wait until she returns?  
Stacey

Stacey Bosshardt  
Assistant Section Chief  
Natural Resources Section  
Environment & Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, D.C. 20044-7611  
[Stacey.Bosshardt@usdoj.gov](mailto:Stacey.Bosshardt@usdoj.gov)  
202-514-2912 (telephone)  
202-305-0506 (fax)

**From:** Haugrud, Kevin [mailto:[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)]  
**Sent:** Monday, November 27, 2017 11:40 AM  
**To:** Russell, Lisa (ENRD) <[LRussell@ENRD.USDOJ.GOV](mailto:LRussell@ENRD.USDOJ.GOV)>; Bosshardt, Stacey (ENRD) <[SBosshardt@ENRD.USDOJ.GOV](mailto:SBosshardt@ENRD.USDOJ.GOV)>; Boronow, Clare (ENRD) <[CBoronow@ENRD.USDOJ.GOV](mailto:CBoronow@ENRD.USDOJ.GOV)>; Piropato, Marissa (ENRD) <[MPiropato@ENRD.USDOJ.GOV](mailto:MPiropato@ENRD.USDOJ.GOV)>; Duffy, Sean C. (ENRD) <[SDuffy@ENRD.USDOJ.GOV](mailto:SDuffy@ENRD.USDOJ.GOV)>  
**Cc:** Briana Collier <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>; Richard McNeer <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>; Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>  
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**To:** "Bosshardt, Stacey (ENRD)" <[Stacey.Bosshardt@usdoj.gov](mailto:Stacey.Bosshardt@usdoj.gov)>  
"Russell, Lisa (ENRD)" <[Lisa.Russell@usdoj.gov](mailto:Lisa.Russell@usdoj.gov)>, "Boronow, Clare (ENRD)" <[Clare.Boronow@usdoj.gov](mailto:Clare.Boronow@usdoj.gov)>, "Piropato, Marissa (ENRD)" <[Marissa.Piropato@usdoj.gov](mailto:Marissa.Piropato@usdoj.gov)>, "Duffy, Sean C. (ENRD)" <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>, Briana Collier <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>, Richard McNeer <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>, Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>, Mariagrazia Caminiti <[Marigrace.Caminiti@sol.doi.gov](mailto:Marigrace.Caminiti@sol.doi.gov)>  
**CC:**  
**Subject:** Re: Twin Metals - Draft M-Opinion

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On Tue, Nov 28, 2017 at 1:35 PM, Bosshardt, Stacey (ENRD) <[Stacey.Bosshardt@usdoj.gov](mailto:Stacey.Bosshardt@usdoj.gov)> wrote:

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Stacey Bosshardt  
Assistant Section Chief

Natural Resources Section  
Environment & Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, D.C. 20044-7611  
[Stacey.Bosshardt@usdoj.gov](mailto:Stacey.Bosshardt@usdoj.gov)  
202-514-2912 (telephone)  
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**"Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>**

---

**From:** "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
**Sent:** Tue Nov 28 2017 11:46:43 GMT-0700 (MST)  
**To:** Ryan Sklar <[ryan.sklar@sol.doi.gov](mailto:ryan.sklar@sol.doi.gov)>  
**Subject:** Fwd: Twin Metals - Draft M-Opinion

Ryan, FYI.

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste. 1800  
Albuquerque, NM 87102

Phone: (202) 208-4853

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----- Forwarded message -----

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**To:** "Bosshardt, Stacey (ENRD)" <[Stacey.Bosshardt@usdoj.gov](mailto:Stacey.Bosshardt@usdoj.gov)>



Cc: "Russell, Lisa (ENRD)" <[Lisa.Russell@usdoj.gov](mailto:Lisa.Russell@usdoj.gov)>, "Boronow, Clare (ENRD)" <[Clare.Boronow@usdoj.gov](mailto:Clare.Boronow@usdoj.gov)>, "Piropato, Marissa (ENRD)" <[Marissa.Piropato@usdoj.gov](mailto:Marissa.Piropato@usdoj.gov)>, "Duffy, Sean C. (ENRD)" <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>, Briana Collier <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>, Richard McNeer <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>, Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>, Mariagrazia Caminiti <[Marigrace.Caminiti@sol.doi.gov](mailto:Marigrace.Caminiti@sol.doi.gov)>

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**From:** "Caminiti, Mariagrazia" <[marigrace.caminiti@sol.doi.gov](mailto:marigrace.caminiti@sol.doi.gov)>  
**Sent:** Tue Nov 28 2017 11:46:25 GMT-0700 (MST)  
**To:** "Haugrud, Kevin" <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)>  
"Bosshardt, Stacey (ENRD)" <[Stacey.Bosshardt@usdoj.gov](mailto:Stacey.Bosshardt@usdoj.gov)>,  
"Russell, Lisa (ENRD)" <[Lisa.Russell@usdoj.gov](mailto:Lisa.Russell@usdoj.gov)>, "Boronow,



**CC:**

Clare (ENRD)" <Clare.Boronow@usdoj.gov>, "Piropato, Marissa (ENRD)" <Marissa.Piropato@usdoj.gov>, "Duffy, Sean C. (ENRD)" <Sean.C.Duffy@usdoj.gov>, Briana Collier <briana.collier@sol.doi.gov>, Richard McNeer <richard.mcneer@sol.doi.gov>, Karen Hawbecker <karen.hawbecker@sol.doi.gov>

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## Marigrace Caminiti

[illegible]

**"McNeer, Richard" <richard.mcneer@sol.doi.gov>**

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Natural Resources Section  
Environment & Natural Resources Division  
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## Marigrace Caminiti

Executive Assistant to the Solicitor  
US Department of the Interior  
1849 C Street, NW, Rm. 6352  
Washington, DC 20240  
202-208-4423 - main number  
202-208-3111 - direct  
202-208-5584 - fax  
202-528-0486 or 202-359-2949 -cell/wcell

[illegible]

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**"Collier, Briana" <briana.collier@sol.doi.gov>**

**From:** "Collier, Briana" <briana.collier@sol.doi.gov>

**Sent:** Tue Nov 28 2017 12:10:53 GMT-0700 (MST)  
**To:** "McNeer, Richard" <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>  
**CC:** "Caminiti, Mariagrazia" <[marigrace.caminiti@sol.doi.gov](mailto:marigrace.caminiti@sol.doi.gov)>  
**Subject:** Re: Twin Metals - Draft M-Opinion

I'm fine with either as well. Thanks!

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste. 1800  
Albuquerque, NM 87102

Phone: (202) 208-4853

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On Tue, Nov 28, 2017 at 12:09 PM, McNeer, Richard <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)> wrote:

Marigrace:

No preference.

Richard

On Tue, Nov 28, 2017 at 1:46 PM, Caminiti, Mariagrazia <[marigrace.caminiti@sol.doi.gov](mailto:marigrace.caminiti@sol.doi.gov)> wrote:

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<richard.mcneer@sol.doi.gov>, Karen Hawbecker  
<karen.hawbecker@sol.doi.gov>

**Subject:** RE: Twin Metals - Draft M-Opinion

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**To:** Haugrud, Kevin <jack.haugrud@sol.doi.gov>  
**Cc:** Bosshardt, Stacey (ENRD) <SBosshardt@ENRD.USDOJ.GOV>; Russell, Lisa (ENRD) <LRussell@ENRD.USDOJ.GOV>; Boronow, Clare (ENRD) <CBoronow@ENRD.USDOJ.GOV>; Piropero, Marissa (ENRD) <MPiropato@ENRD.USDOJ.GOV>; Duffy, Sean C. (ENRD) <SDuffy@ENRD.USDOJ.GOV>; Briana Collier <briana.collier@sol.doi.gov>; Richard McNeer <richard.mcneer@sol.doi.gov>; Karen Hawbecker <karen.hawbecker@sol.doi.gov>  
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**Date:** Tue, Nov 28, 2017 at 11:40 AM

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**Ryan Sklar**

Attorney-Advisor  
Office of the Solicitor  
U.S. Department of the Interior  
202-208-3039

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**CC:**  
**Subject:** Re: Twin Metals - Draft M-Opinion

I'll send out a meeting invitation. [thanks.mg](#)

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P.O. Box 7611  
Washington, D.C. 20044-7611  
[Stacey.Bosshardt@usdoj.gov](mailto:Stacey.Bosshardt@usdoj.gov)  
202-514-2912 (telephone)  
202-305-0506 (fax)

**From:** Haugrud, Kevin [mailto:[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)]  
**Sent:** Monday, November 27, 2017 11:40 AM  
**To:** Russell, Lisa (ENRD) <[LRussell@ENRD.USDOJ.GOV](mailto:LRussell@ENRD.USDOJ.GOV)>; Bosshardt, Stacey (ENRD) <[SBosshardt@ENRD.USDOJ.GOV](mailto:SBosshardt@ENRD.USDOJ.GOV)>; Boronow, Clare (ENRD) <[CBoronow@ENRD.USDOJ.GOV](mailto:CBoronow@ENRD.USDOJ.GOV)>; Piropero, Marissa (ENRD) <[MPiropero@ENRD.USDOJ.GOV](mailto:MPiropero@ENRD.USDOJ.GOV)>; Duffy, Sean C. (ENRD) <[SDuffy@ENRD.USDOJ.GOV](mailto:SDuffy@ENRD.USDOJ.GOV)>  
**Cc:** Briana Collier <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>; Richard McNeer <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>; Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>  
**Subject:** Twin Metals - Draft M-Opinion

Attached is a draft of a M-Opinion that would reverse M-37036 and conclude that Twin Metals does have a non-discretionary right to a third renewal. The Acting Solicitor would like to issue the M-Opinion this week, so we would appreciate any comments on the M-Opinion as soon as reasonably possible this week. I recognize we also need to discuss next steps once the opinion is issued. I can have Marigrace set up a time to discuss if you would like.

--

**Marigrace Caminiti**

Executive Assistant to the Solicitor

US Department of the Interior

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DRAFT – Privileged and Confidential  
November 24, 2017

M-

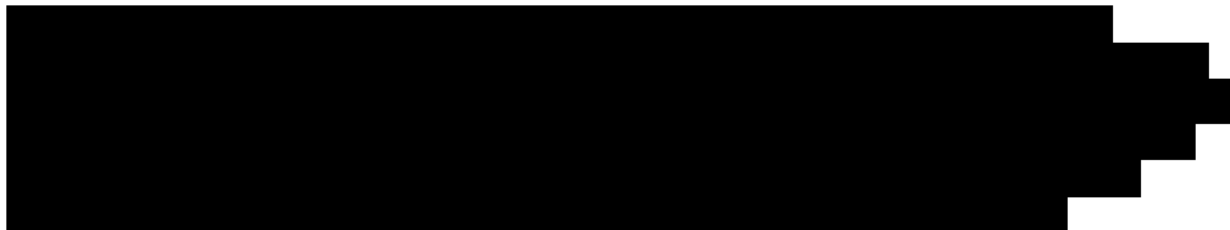
Memorandum

To: Director, Bureau of Land Management

From: Solicitor

Subject: Reversal of M-37036, “Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-01353)”

(b) (5)



(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

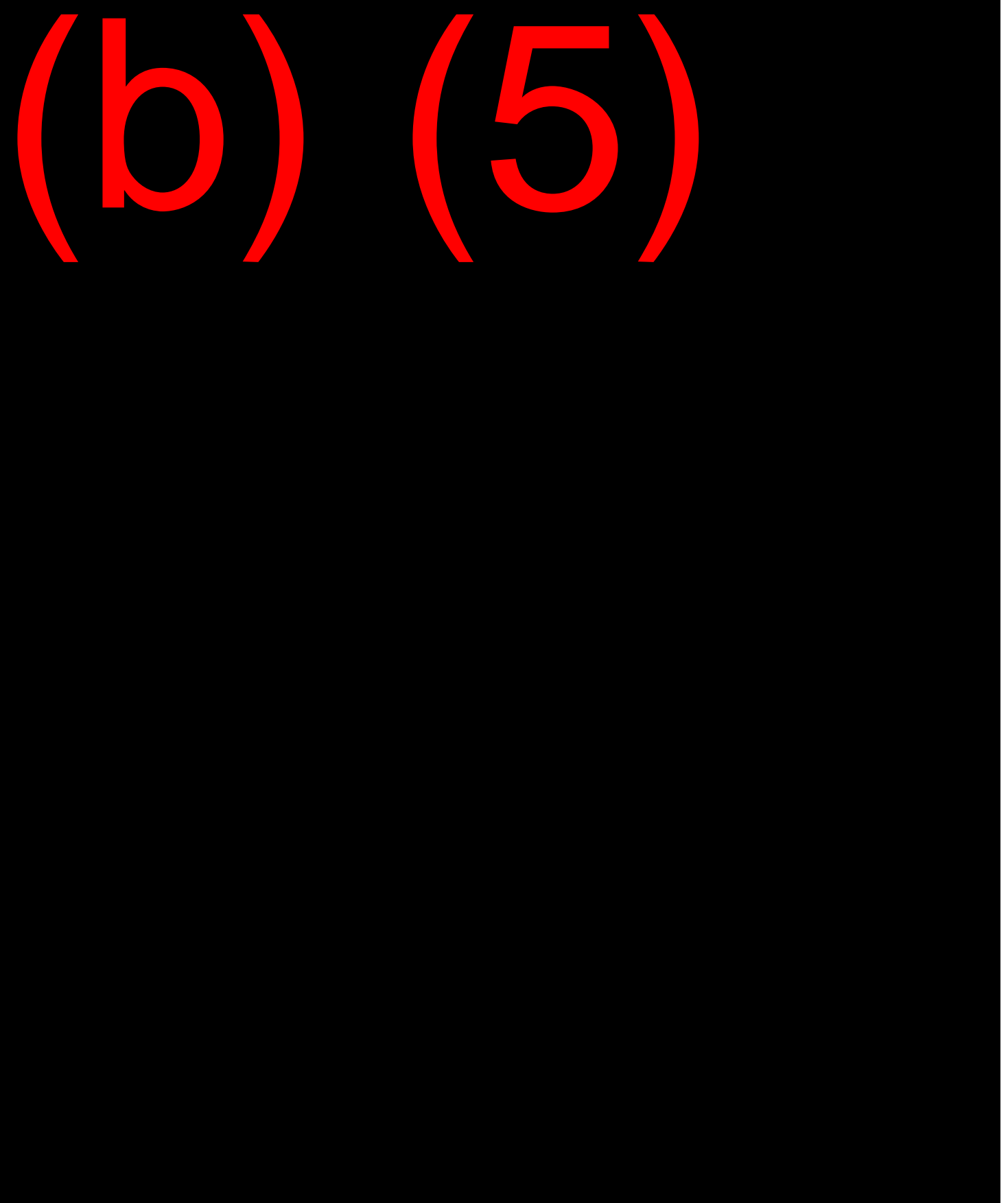
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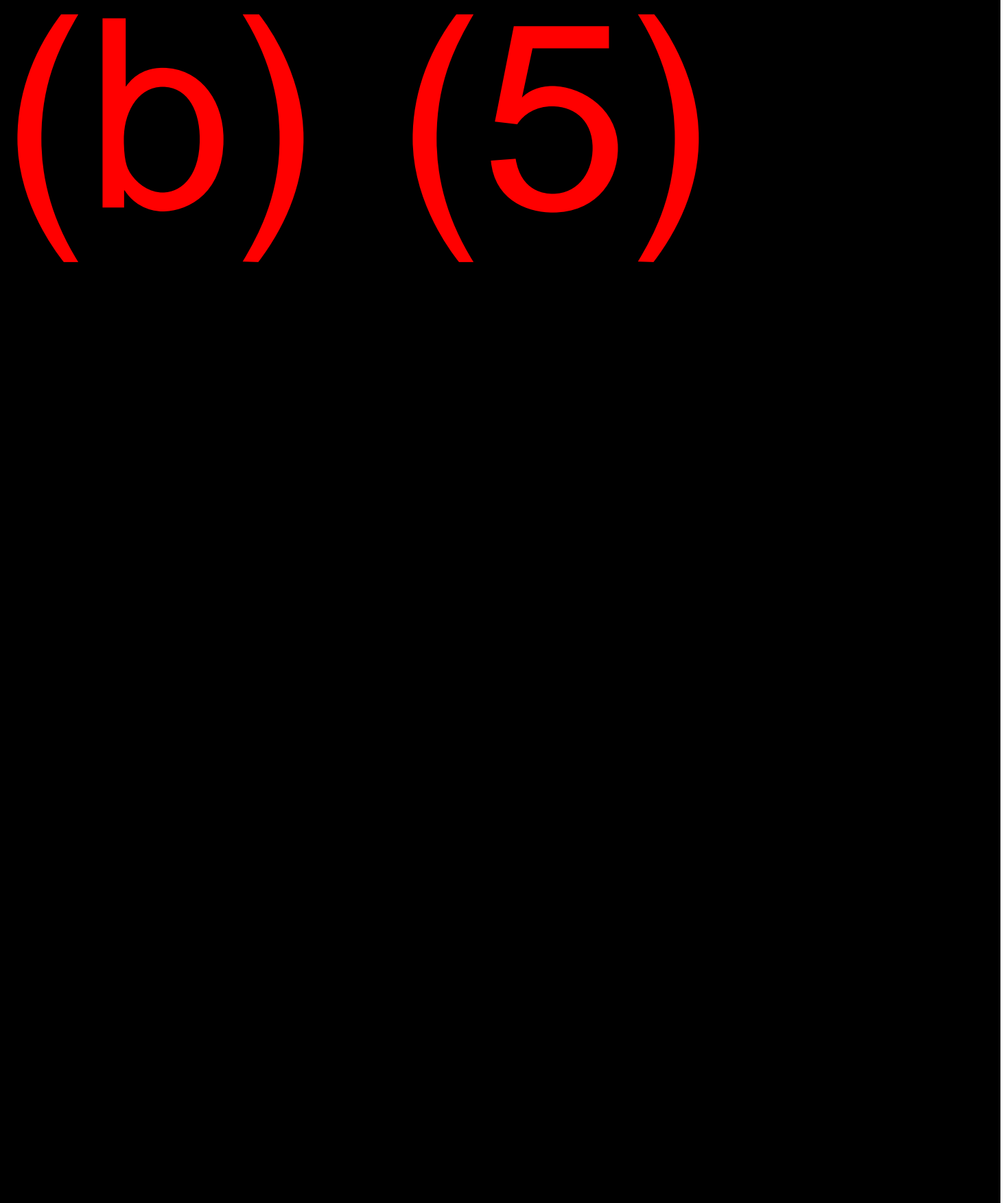
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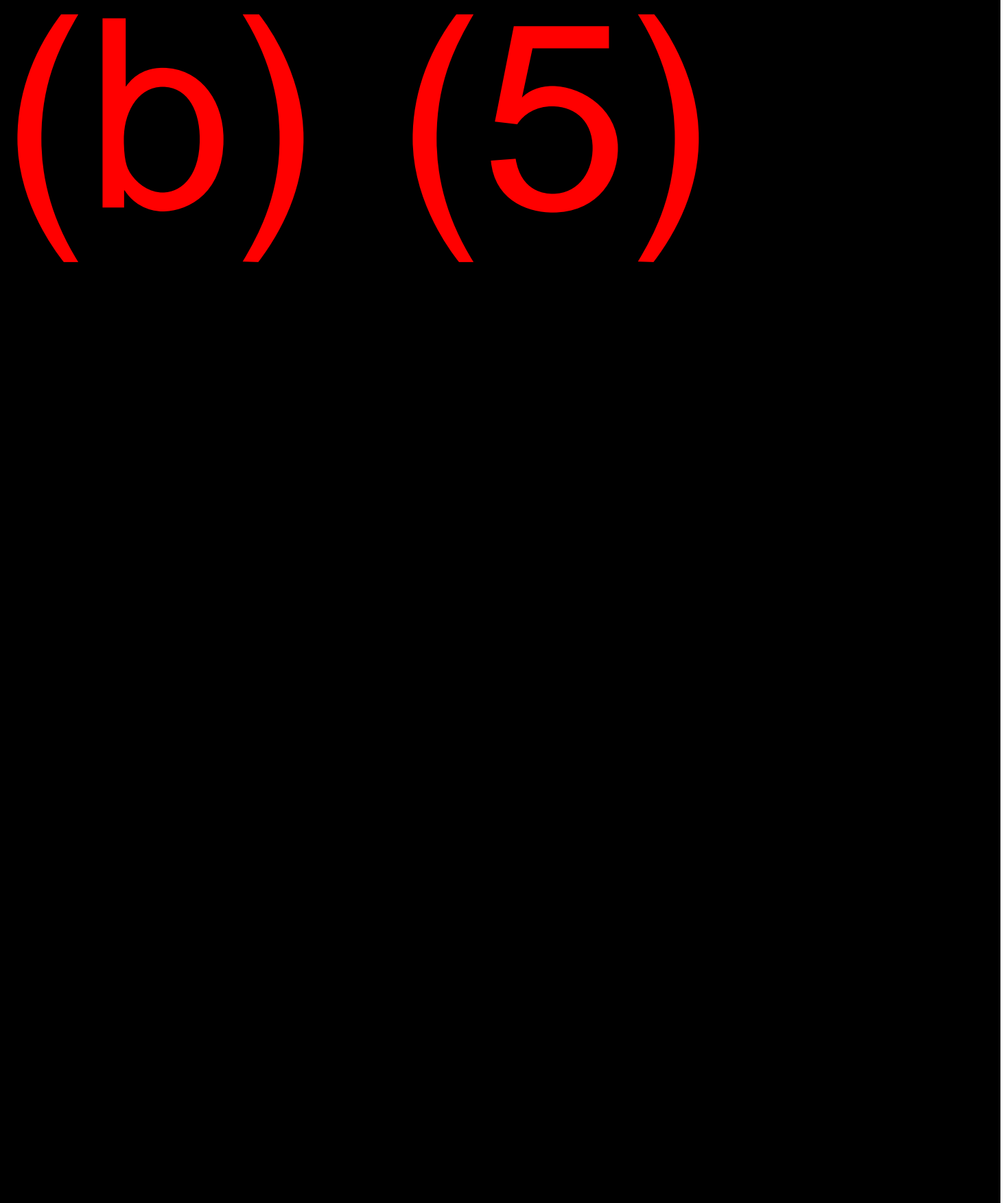
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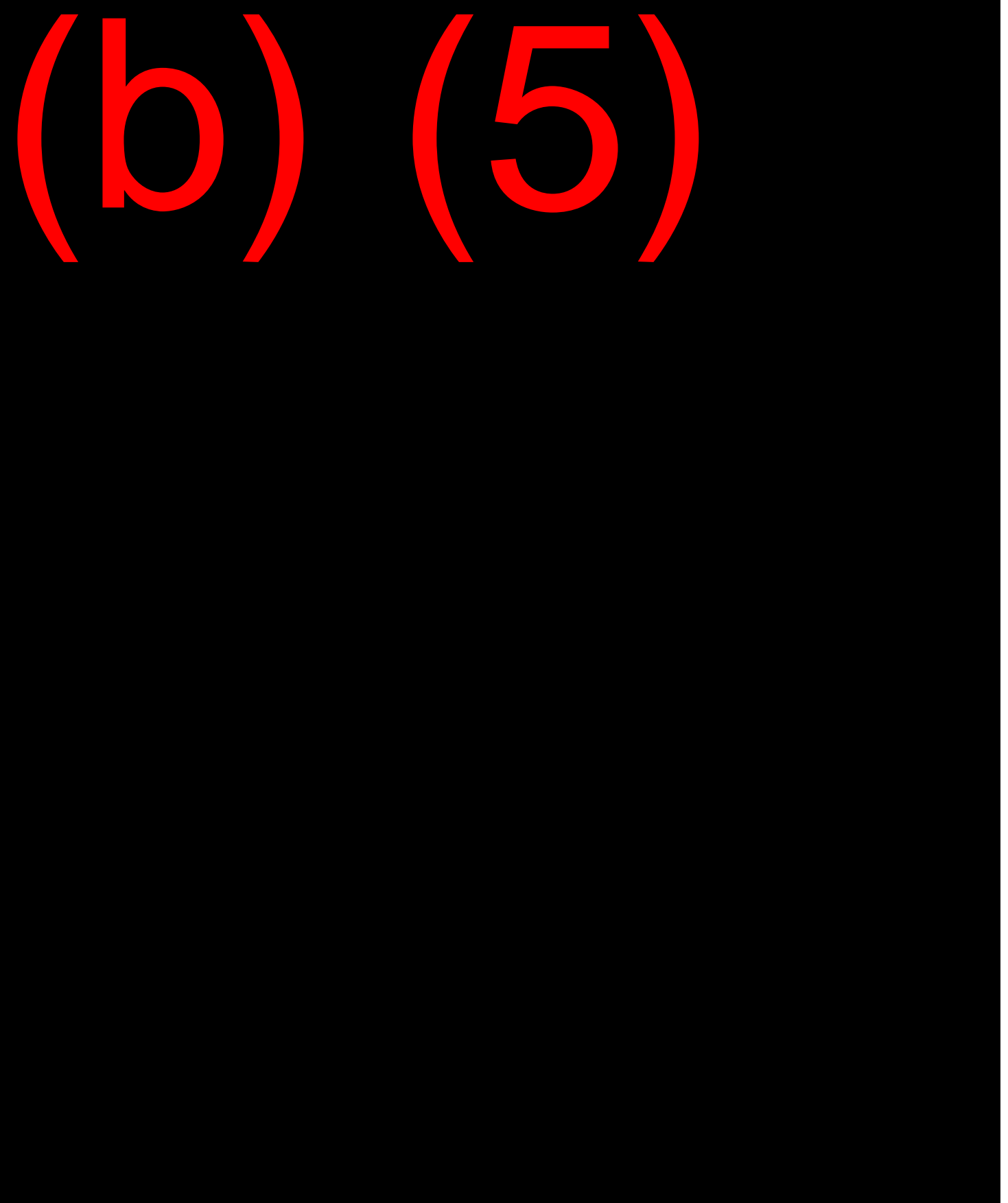
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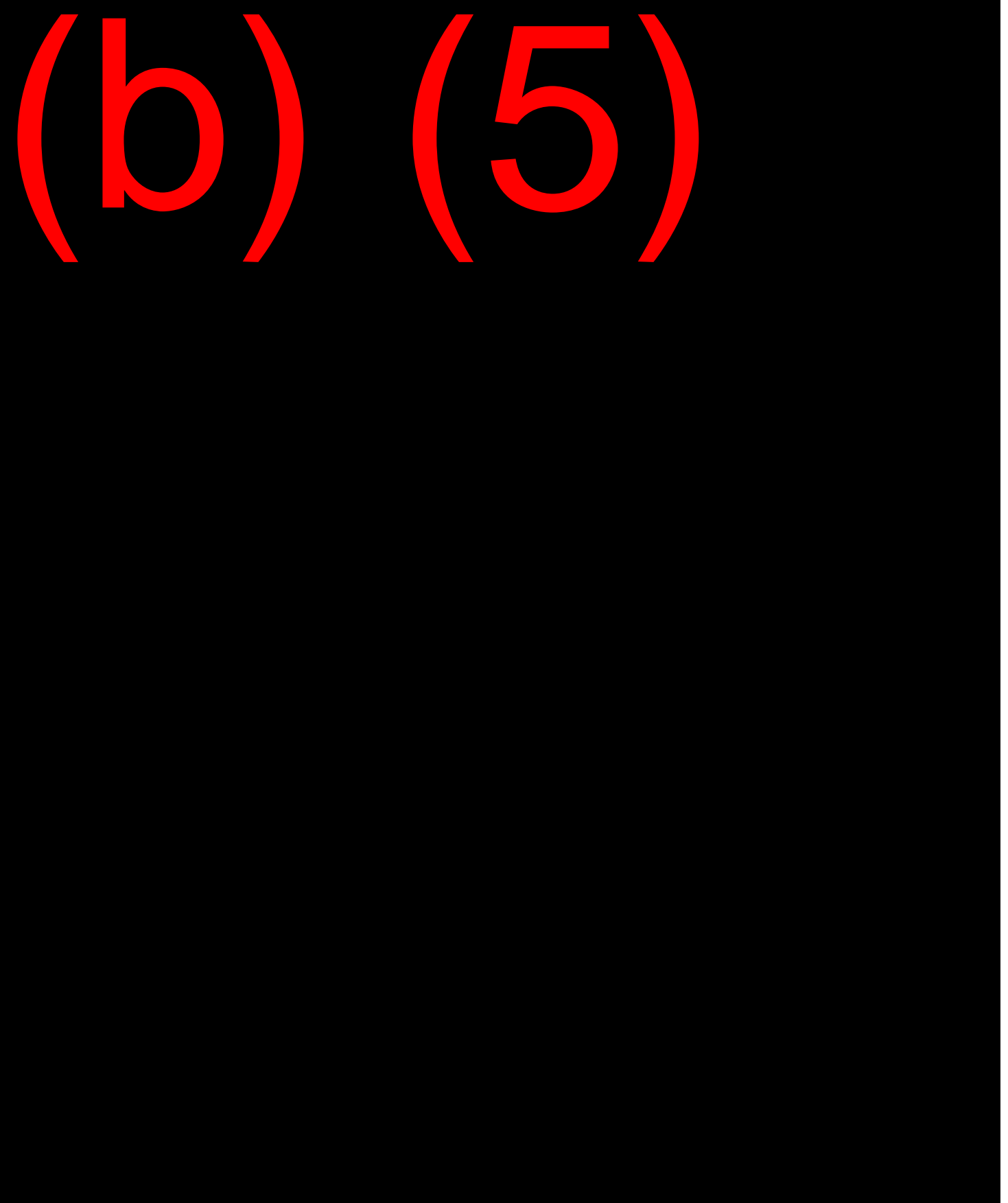
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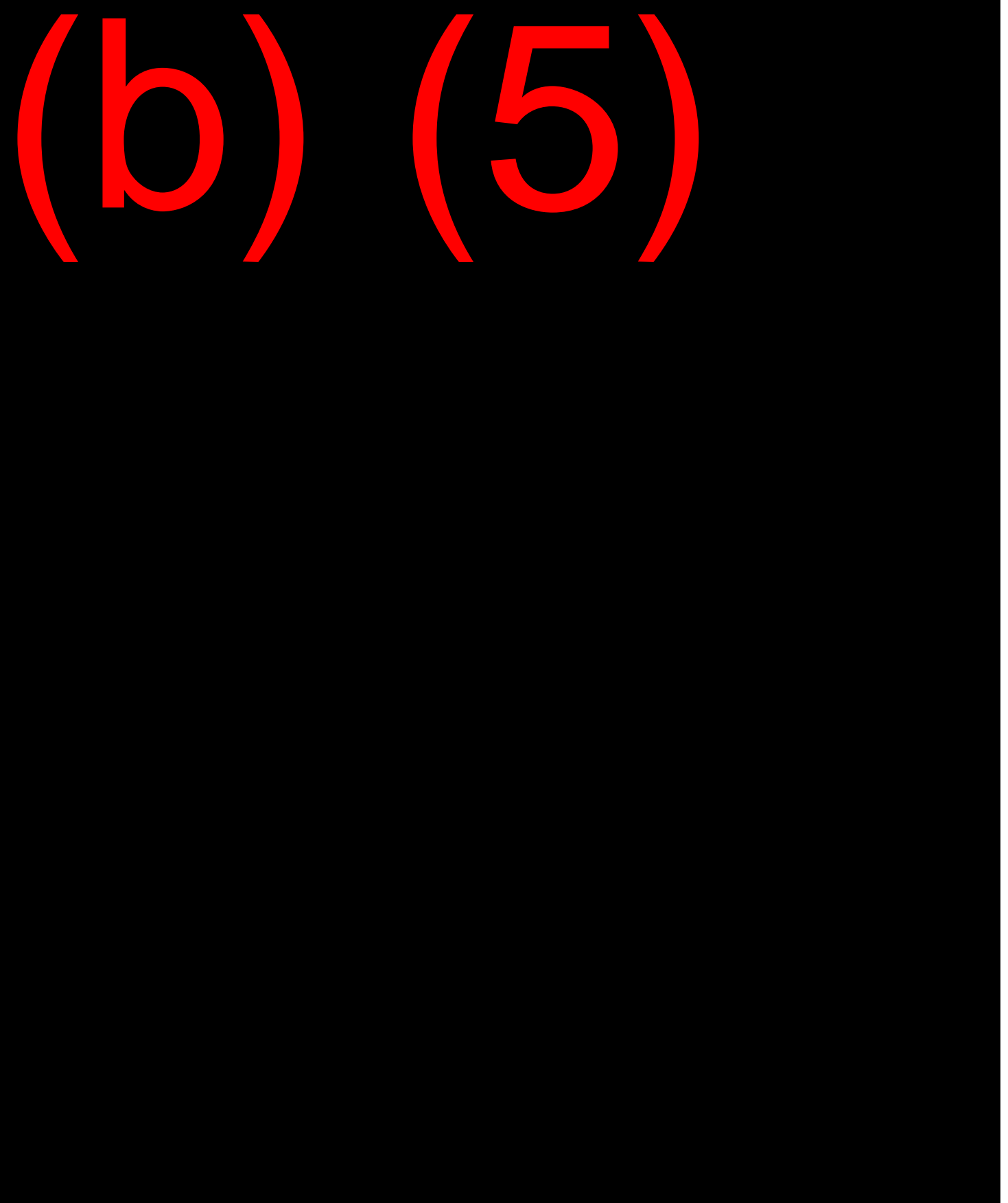
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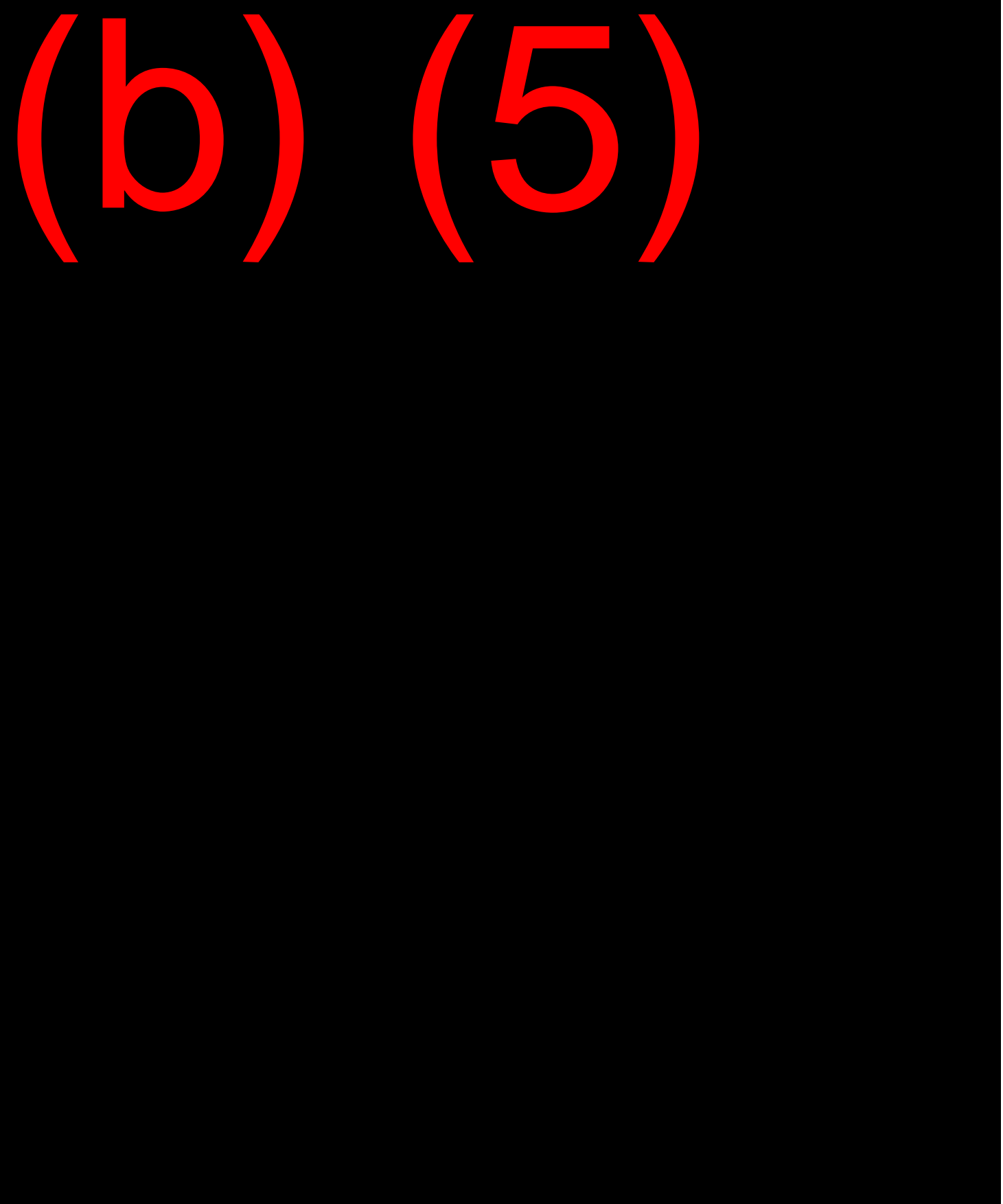


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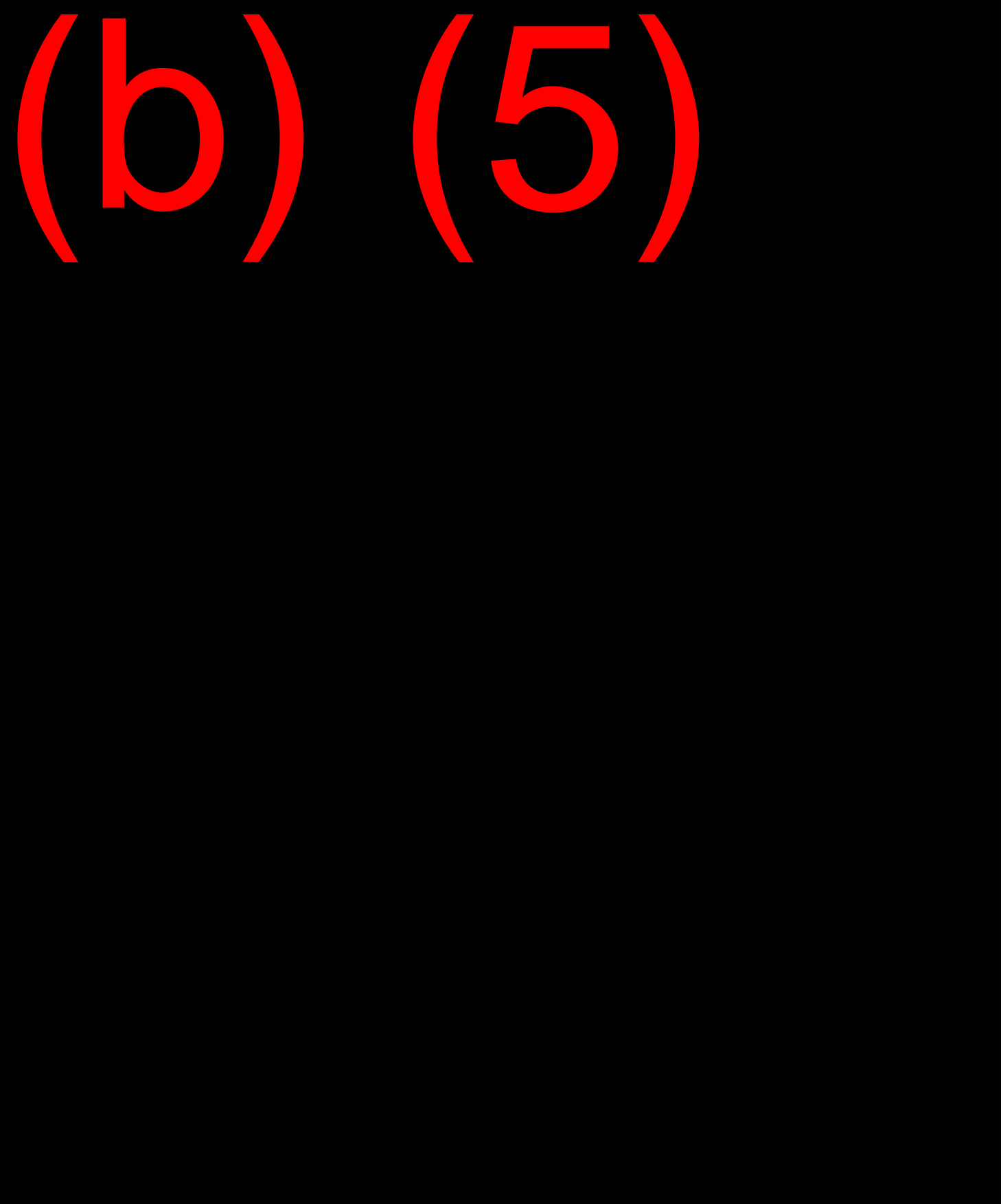




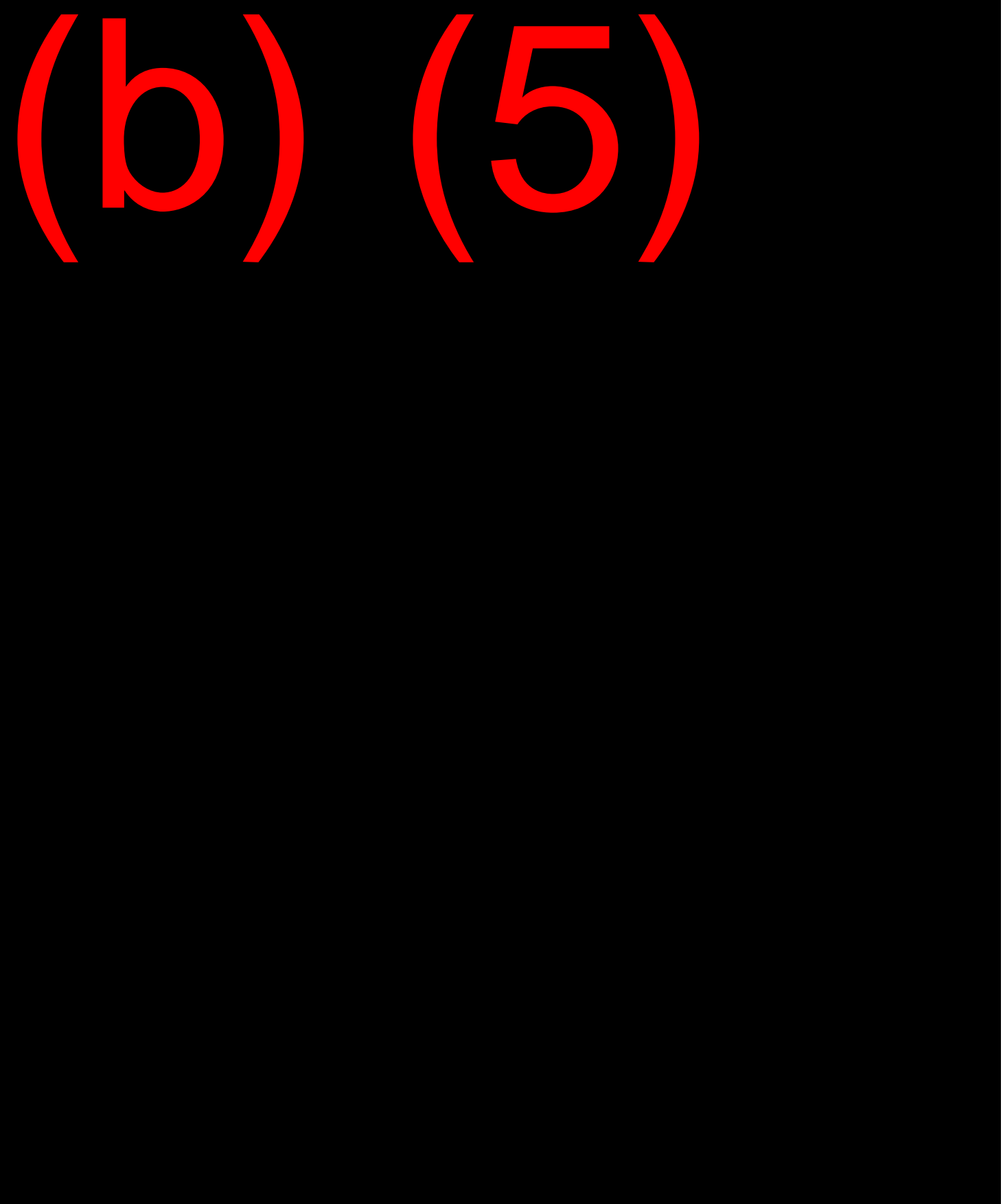
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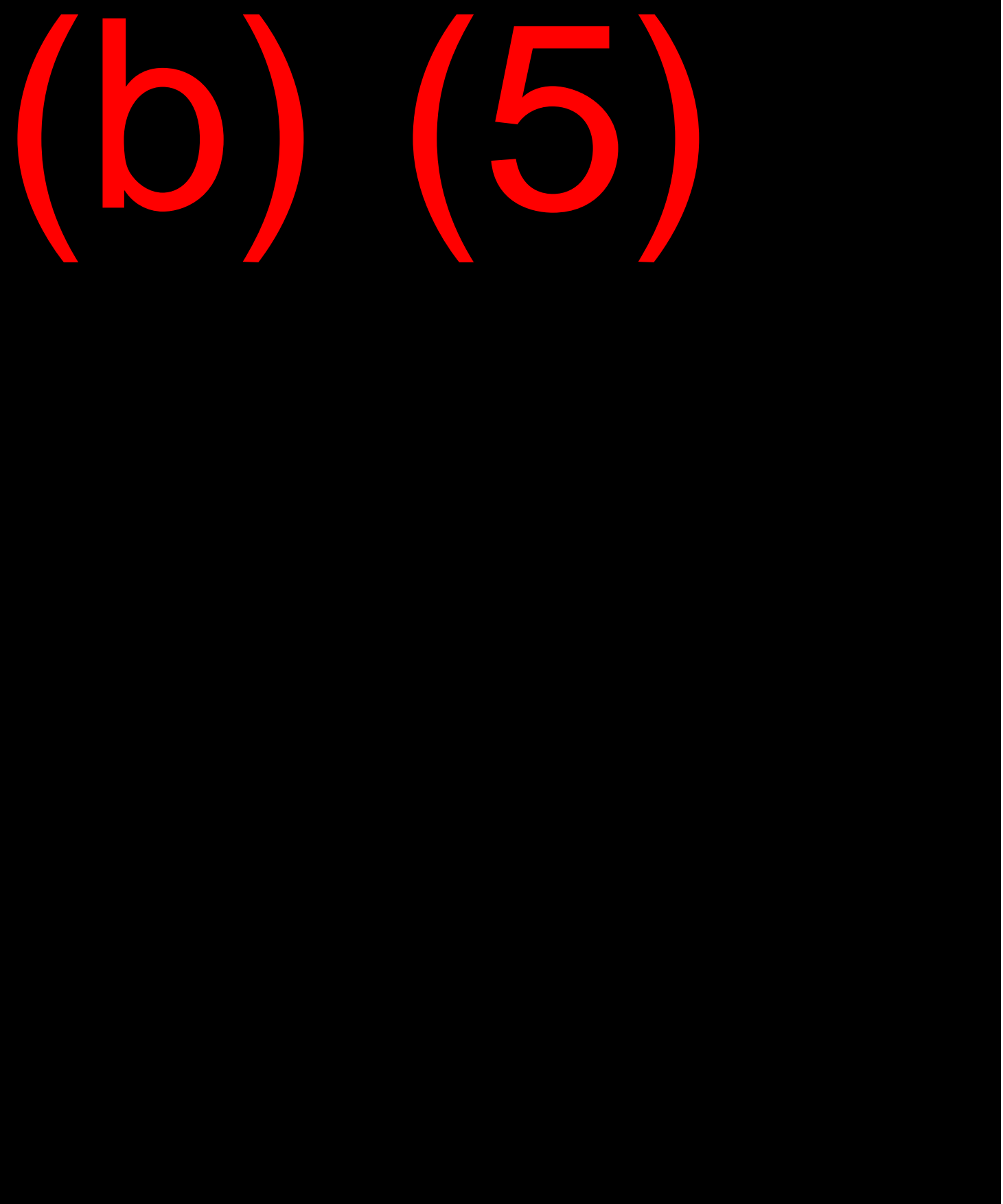
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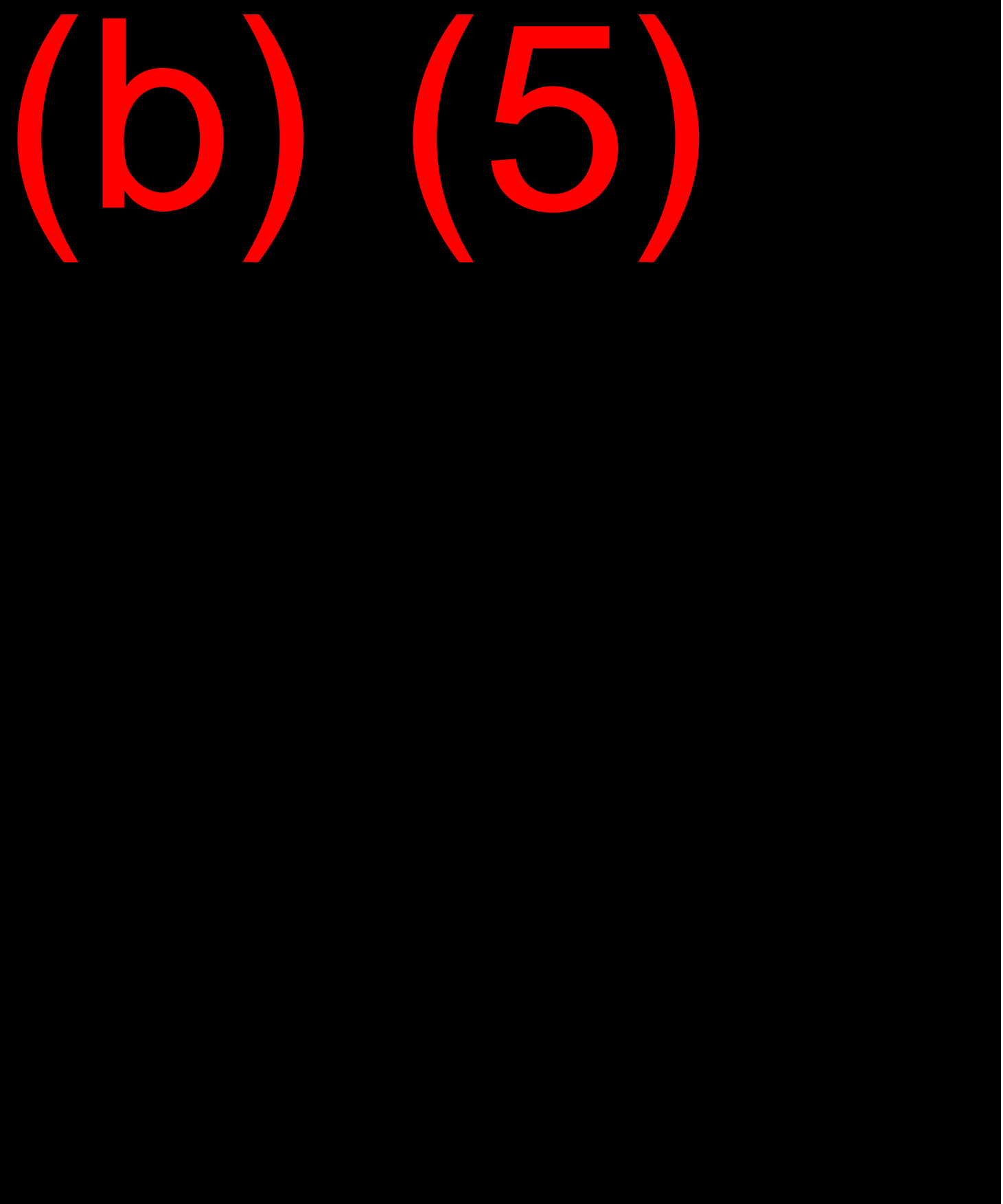
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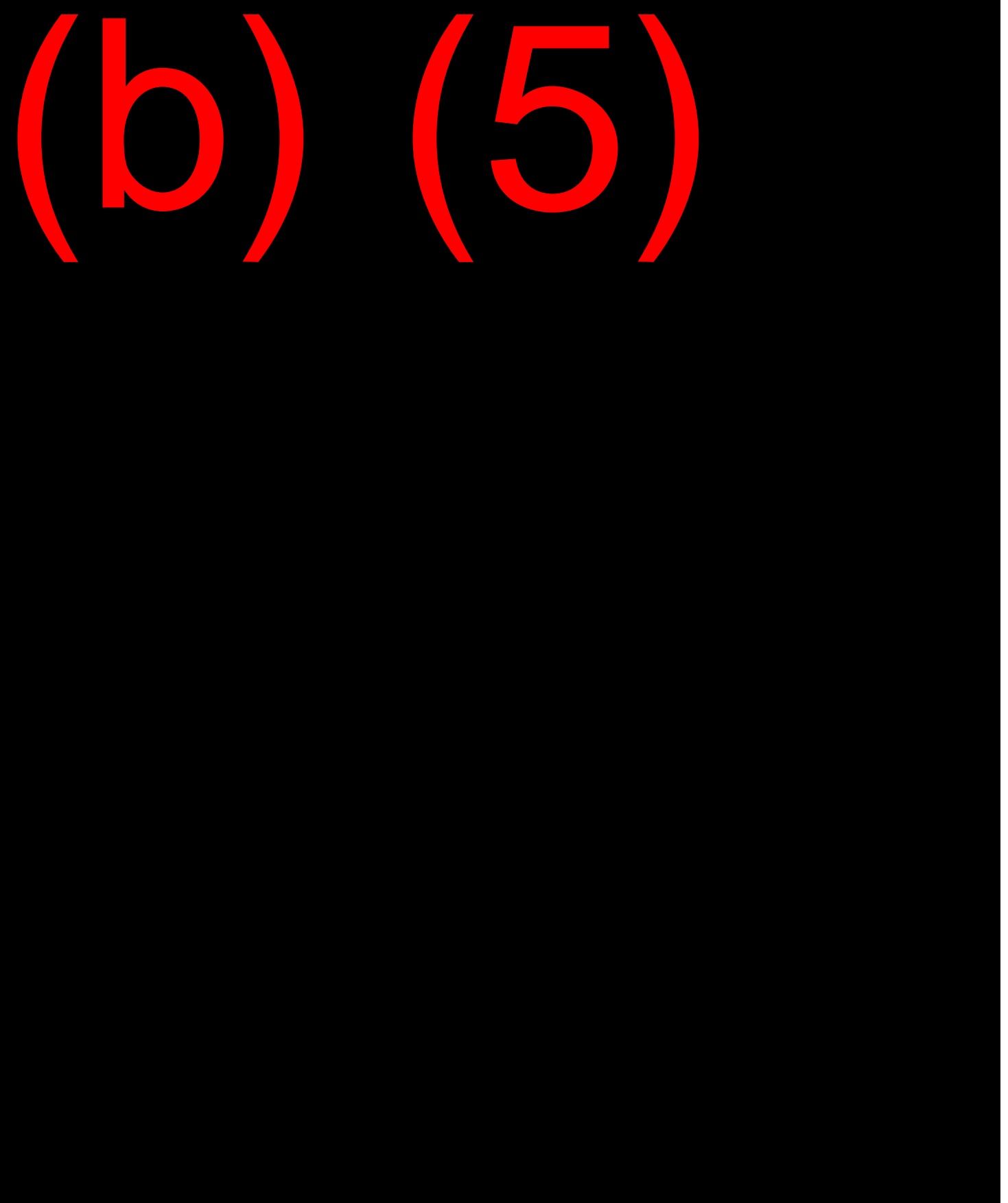
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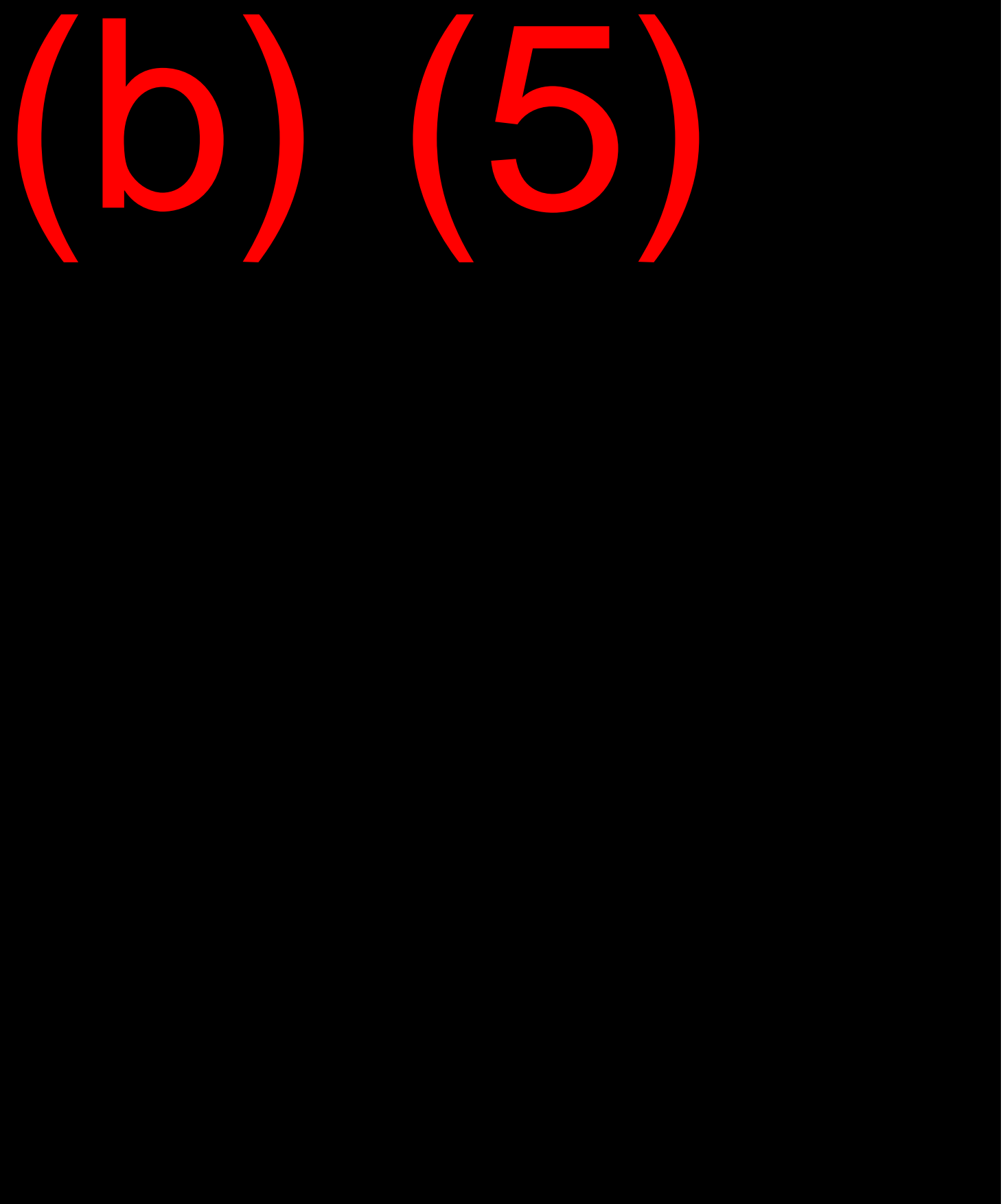
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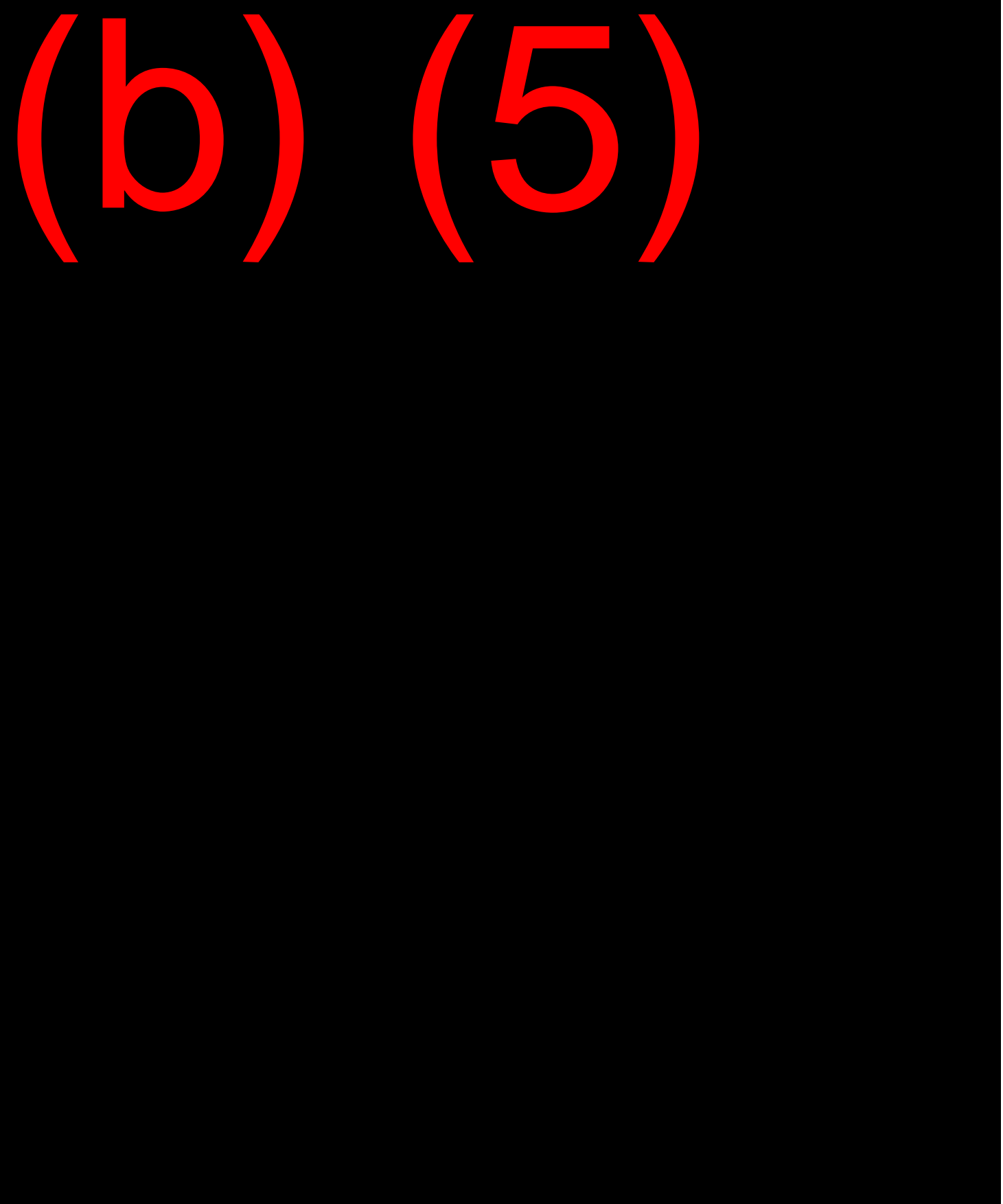


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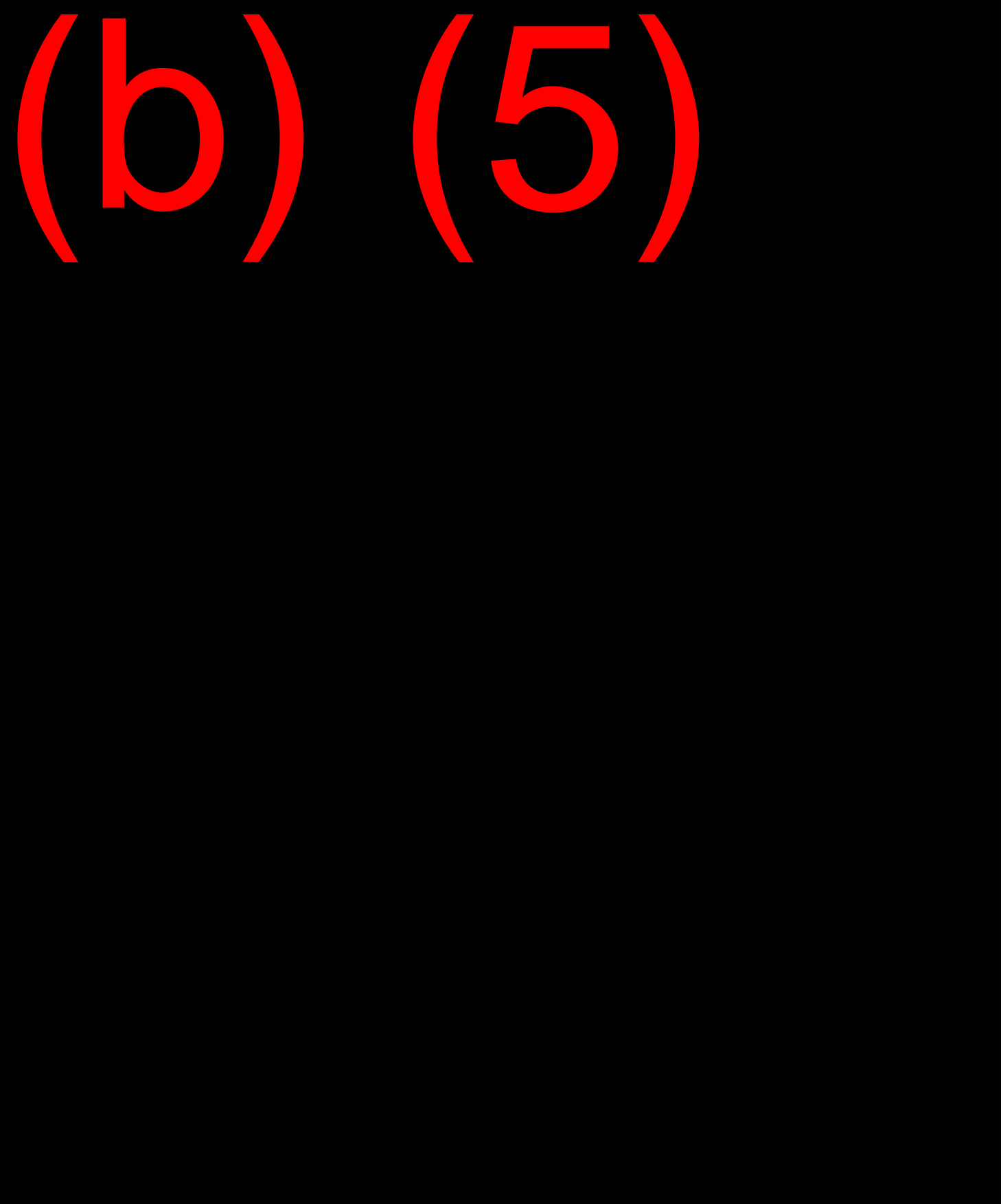




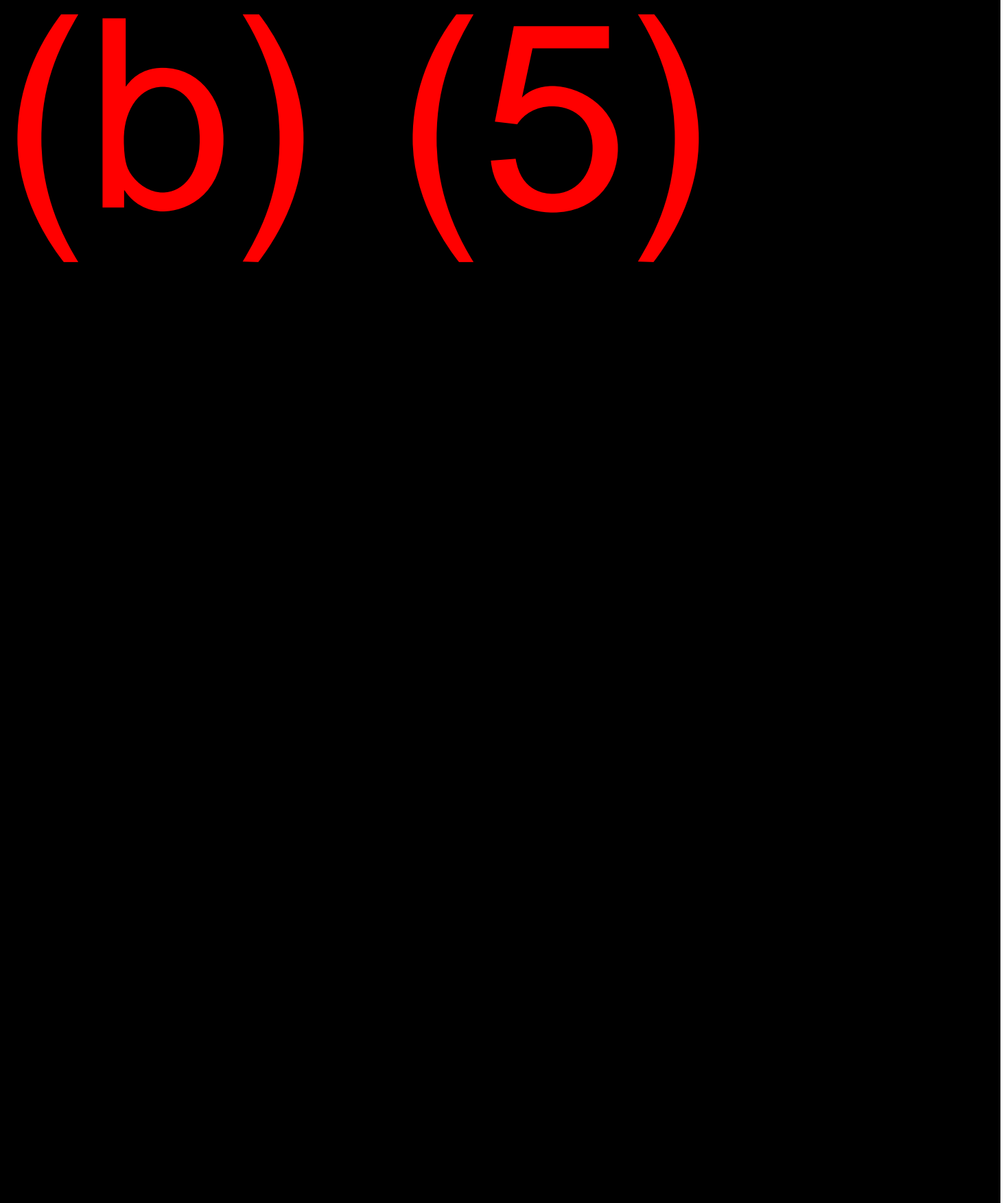
(b) (5)



(b) (5)



(b) (5)



(b) (5) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b) (5)



**Created by:**[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)

Total Messages in label:97 (20 conversations)

Created: 08-07-2018 at 11:52 AM



# Conversation Contents

Twin Metals draft

**Kevin Haugrud <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)>**

---

**From:** Kevin Haugrud <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)>  
**Sent:** Wed Nov 22 2017 15:23:38 GMT-0700 (MST)  
**To:**  
**CC:** Briana Collier <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
**Subject:** Twin Metals draft

(b) (5)



**Created by:**[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)

Total Messages in label:97 (20 conversations)

Created: 08-07-2018 at 11:52 AM



# Conversation Contents

## Draft Twin Metals Opinion

### Attachments:

/9. Draft Twin Metals Opinion/1.1 Twin Metals -- Draft 11 22 17.docx  
/9. Draft Twin Metals Opinion/2.1 Twin Metals -- Draft 11 22 17.docx

**"Haugrud, Kevin" <jack.haugrud@sol.doi.gov>**

---

**From:** "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>  
**Sent:** Wed Nov 22 2017 08:35:05 GMT-0700 (MST)  
**To:** Briana Collier <briana.collier@sol.doi.gov>, Karen Hawbecker <karen.hawbecker@sol.doi.gov>, Richard McNeer <richard.mcneer@sol.doi.gov>, Gary Lawkowski <gary.lawkowski@sol.doi.gov>  
**Subject:** Draft Twin Metals Opinion  
**Attachments:** Twin Metals -- Draft 11 22 17.docx

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**"Collier, Briana" <briana.collier@sol.doi.gov>**

---

**From:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**Sent:** Wed Nov 22 2017 08:40:39 GMT-0700 (MST)  
**To:** Steve Harris <steve.harris@sol.doi.gov>  
**CC:** Karen Hawbecker <karen.hawbecker@sol.doi.gov>, Richard McNeer <richard.mcneer@sol.doi.gov>  
**Subject:** Fwd: Draft Twin Metals Opinion  
**Attachments:** Twin Metals -- Draft 11 22 17.docx

Fwd-ing to Steve.

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

Phone: (202) 208-4853

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notified that any dissemination, distribution, copying, or use of this email or its contents is strictly prohibited. If you received this email in error, please notify the sender immediately and destroy all copies.

----- Forwarded message -----

From: **Haugrud, Kevin** <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)>

Date: Wed, Nov 22, 2017 at 8:35 AM

Subject: Draft Twin Metals Opinion

To: Briana Collier <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>, Karen Hawbecker

<[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>, Richard McNeer <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>, Gary

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**Karen Hawbecker** <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>

---

**From:** Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>  
**Sent:** Wed Nov 22 2017 08:46:52 GMT-0700 (MST)  
**To:** "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
**CC:** Steve Harris <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>, Richard McNeer <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>  
**Subject:** Re: Draft Twin Metals Opinion

Thanks, Briana. Should we put it on Google Docs? What do you think? Do you have access to set it up there? Does everyone else have a means of accessing Google docs? —Karen

Sent from my iPad

On Nov 22, 2017, at 9:41 AM, Collier, Briana <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)> wrote:

Fwd-ing to Steve.

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

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Date: Wed, Nov 22, 2017 at 8:35 AM

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<Twin Metals -- Draft 11 22 17.docx>

**"Harris, Steve" <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>**

---

**From:** "Harris, Steve" <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>  
**Sent:** Wed Nov 22 2017 08:47:25 GMT-0700 (MST)  
**To:** "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
**CC:** Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>, Richard McNeer <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>  
**Subject:** Re: Draft Twin Metals Opinion

Got it. Thank you.

On Wed, Nov 22, 2017 at 10:40 AM, Collier, Briana <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)> wrote:  
Fwd-ing to Steve.

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

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**Date:** Wed, Nov 22, 2017 at 8:35 AM  
**Subject:** Draft Twin Metals Opinion  
**To:** Briana Collier <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>, Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>, Richard McNeer <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>, Gary Lawkowski <[gary.lawkowski@sol.doi.gov](mailto:gary.lawkowski@sol.doi.gov)>

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|

--

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Steve Harris

Paralegal Specialist

Division of Mineral Resources

Office of the Solicitor

U.S. Department of the Interior

Phone: (202) 208-5368

Fax: (202) 208-2225

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**Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>**

---

**From:** Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>  
**Sent:** Wed Nov 22 2017 08:48:31 GMT-0700 (MST)  
**To:** "Haugrud, Kevin" <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)>  
Briana Collier <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>, Richard McNeer  
<[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>, Gary Lawkowski  
**CC:** <[gary.lawkowski@sol.doi.gov](mailto:gary.lawkowski@sol.doi.gov)>, Steve Harris  
<[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>  
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<Twin Metals -- Draft 11 22 17.docx>

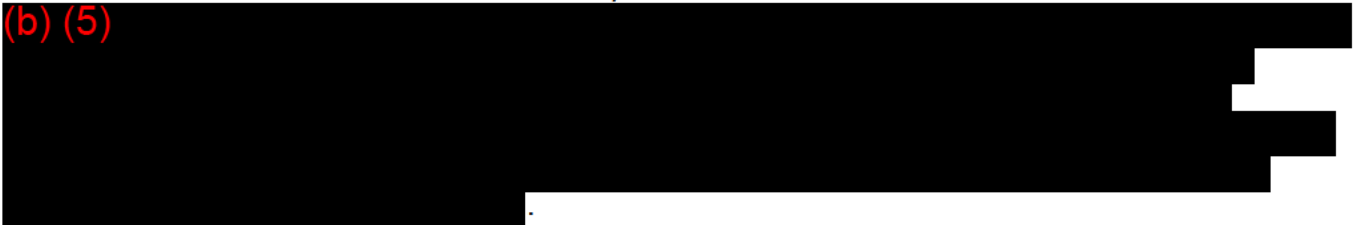
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**"Haugrud, Kevin" <jack.haugrud@sol.doi.gov>**

---

**From:** "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>  
**Sent:** Wed Nov 22 2017 08:54:39 GMT-0700 (MST)  
**To:** Karen Hawbecker <karen.hawbecker@sol.doi.gov>  
Briana Collier <briana.collier@sol.doi.gov>, Richard McNeer  
<richard.mcneer@sol.doi.gov>, Gary Lawkowski  
**CC:** <gary.lawkowski@sol.doi.gov>, Steve Harris  
<steve.harris@sol.doi.gov>  
**Subject:** Re: Draft Twin Metals Opinion

Thanks Karen. I should address one item you will see in the revision - I refused to discuss the  
(b) (5)



On Wed, Nov 22, 2017 at 10:48 AM, Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)> wrote:  
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**To:** Karen Hawbecker <karen.hawbecker@sol.doi.gov>  
**CC:** Steve Harris <steve.harris@sol.doi.gov>, Richard McNeer  
<richard.mcneer@sol.doi.gov>  
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I have access to google drive and can load the draft, save it as a google doc, and share the link. I just started editing the word version, but can transfer my comments.

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

Phone: (202) 208-4853

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On Wed, Nov 22, 2017 at 8:46 AM, Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)> wrote:  
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Fwd-ing to Steve.

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
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Date: Wed, Nov 22, 2017 at 8:35 AM  
Subject: Draft Twin Metals Opinion  
To: Briana Collier <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>, Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>, Richard McNeer <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>, Gary Lawkowski <[gary.lawkowski@sol.doi.gov](mailto:gary.lawkowski@sol.doi.gov)>

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<Twin Metals -- Draft 11 22 17.docx>

**Karen Hawbecker** <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>

---

**From:** Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>  
**Sent:** Wed Nov 22 2017 09:06:04 GMT-0700 (MST)  
**To:** "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
**CC:** Steve Harris <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>, Richard McNeer <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>  
**Subject:** Re: Draft Twin Metals Opinion

Okay. Please load it on google drive. Invite Steve, Richard, Jack, Gary and me. Thanks, Briana.

Sent from my iPad

On Nov 22, 2017, at 9:56 AM, Collier, Briana <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)> wrote:

I have access to google drive and can load the draft, save it as a google doc, and share the link. I just started editing the word version, but can transfer my comments.

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

Phone: (202) 208-4853

This email (including any attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient or the employee or agent responsible for delivery of this email to the intended recipient, you are hereby notified that any dissemination, distribution, copying, or use of this email or its contents is strictly prohibited. If you received this email in error, please notify the sender immediately and destroy all copies.

On Wed, Nov 22, 2017 at 8:46 AM, Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)> wrote:

Thanks, Briana. Should we put it on Google Docs? What do you think? Do you have access to set it up there? Does everyone else have a means of accessing Google docs? —Karen

Sent from my iPad

On Nov 22, 2017, at 9:41 AM, Collier, Briana <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)> wrote:

Fwd-ing to Steve.

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
[505 Marquette Ave., NW Ste.1800](#)  
[Albuquerque, NM 87102](#)



Phone: (202) 208-4853

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----- Forwarded message -----

From: **Haugrud, Kevin** <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)>

Date: Wed, Nov 22, 2017 at 8:35 AM

Subject: Draft Twin Metals Opinion

To: Briana Collier <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>, Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>, Richard McNeer <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>, Gary Lawkowski <[gary.lawkowski@sol.doi.gov](mailto:gary.lawkowski@sol.doi.gov)>

At long last, attached is a revised version of the draft M-Opinion for your review. I have not proofread it, and certain citations need to be fixed (e.g., references to the old M-Opinion are often written as "M37" for shorthand). If you think putting it on google docs for shared editing would make more sense, feel free to do so.

<Twin Metals -- Draft 11 22 17.docx>

---

**Karen Hawbecker** <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>

**From:** Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>  
**Sent:** Wed Nov 22 2017 09:07:55 GMT-0700 (MST)  
**To:** "Haugrud, Kevin" <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)>  
Briana Collier <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>, Richard McNeer <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>, Gary Lawkowski <[gary.lawkowski@sol.doi.gov](mailto:gary.lawkowski@sol.doi.gov)>, Steve Harris <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>  
**CC:**  
**Subject:** Re: Draft Twin Metals Opinion

Thanks, Jack. I think that's a good approach. Briana will load it on Google Drive and give us all access. I need to leave to pick (b) (6) up at the airport shortly, but then plan to begin my review.  
—Karen

Sent from my iPad

On Nov 22, 2017, at 9:54 AM, Haugrud, Kevin <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)> wrote:

Thanks Karen. I should address one item you will see in the revision - I refused to discuss (b) (5)

(b) (5)



On Wed, Nov 22, 2017 at 10:48 AM, Karen Hawbecker

<[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)> wrote:

Thanks for all of your work on this, Jack. We may drop it into Google docs. I'm making sure everyone who will look at it has access to google drive. —Karen

Sent from my iPad

On Nov 22, 2017, at 9:35 AM, Haugrud, Kevin <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)> wrote:

At long last, attached is a revised version of the draft M-Opinion for your review. I have not proofread it, and certain citations need to be fixed (e.g., references to the old M-Opinion are often written as "M37" for shorthand). If you think putting it on google docs for shared editing would make more sense, feel free to do so.

<Twin Metals -- Draft 11 22 17.docx>

M-

Memorandum

To: Director, Bureau of Land Management

From: Solicitor

Subject: Reversal of M-37036, “Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-01353)”

(b) (5)



(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b) (5)

- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

---

[REDACTED]

(b) (5) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

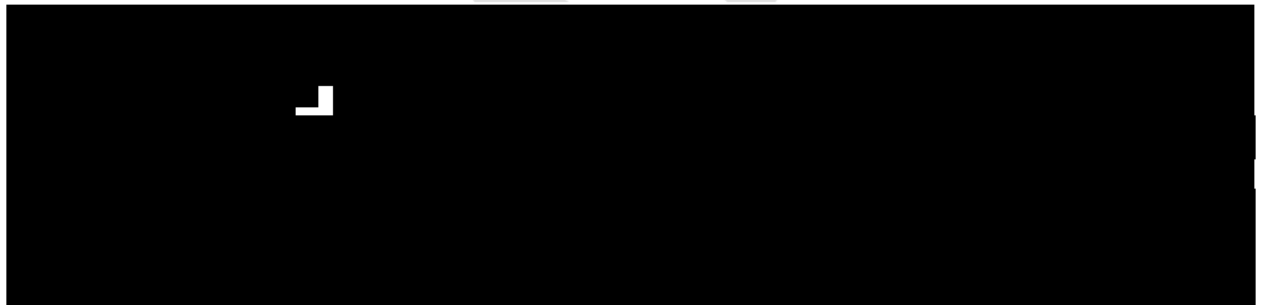
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b) (5)



---





(b) (5) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

---

[REDACTED]

[REDACTED]

[REDACTED]

(b) (5)

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]




[REDACTED]

[REDACTED]


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[REDACTED]

(b) (5)



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(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

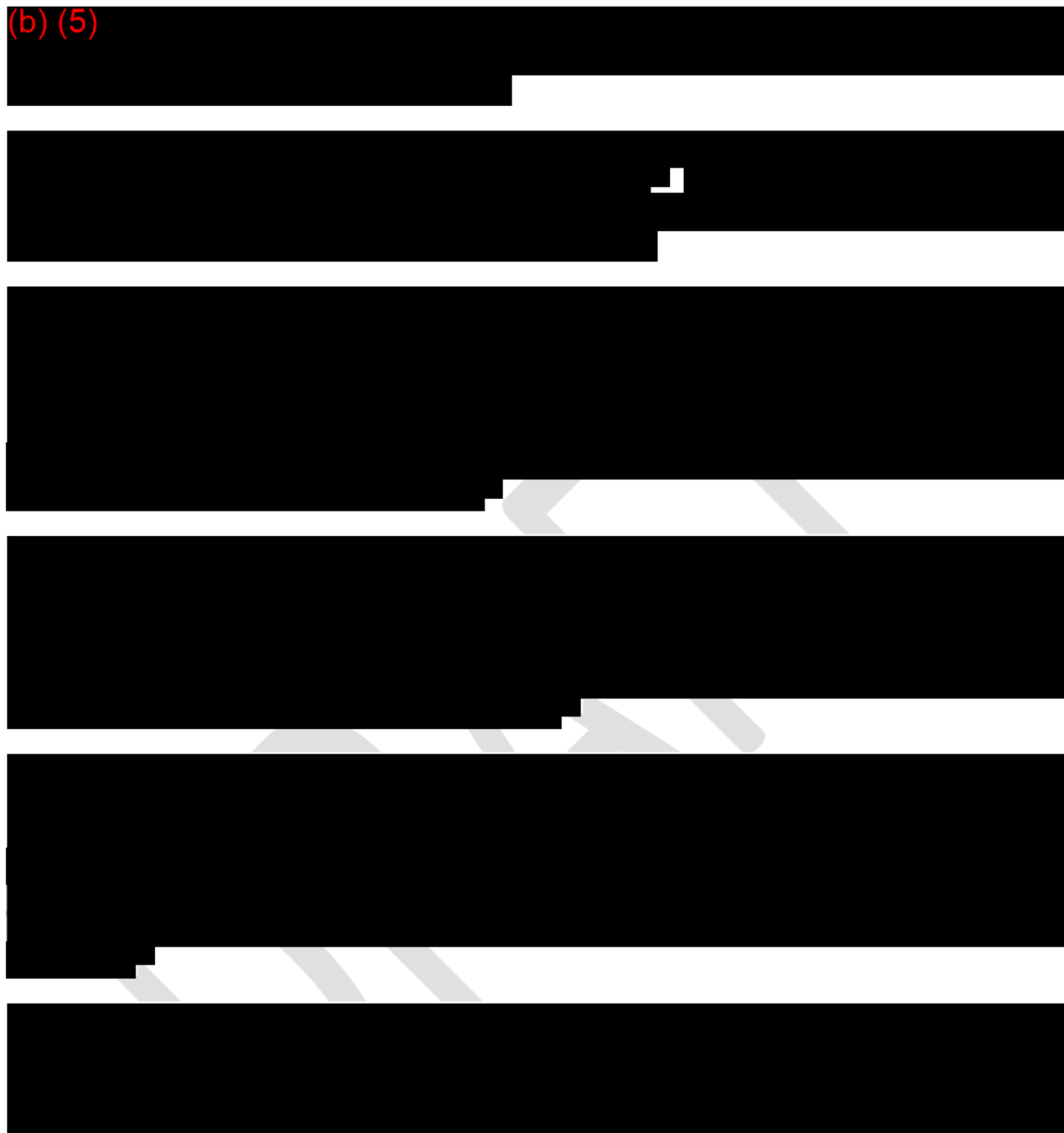
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b) (5)



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(b) (5)



(b) (5) [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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[Redacted]



(b) (5)



(b) (5)



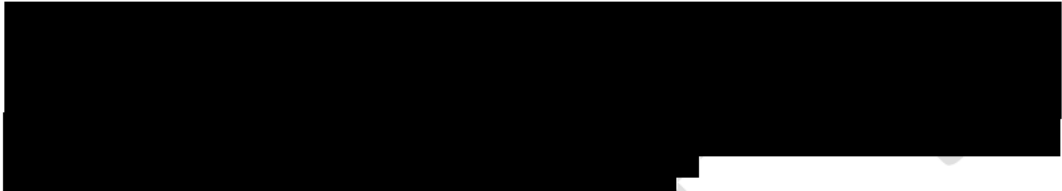
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A single line of text is redacted with a solid black box.



A single line of text is redacted with a solid black box.



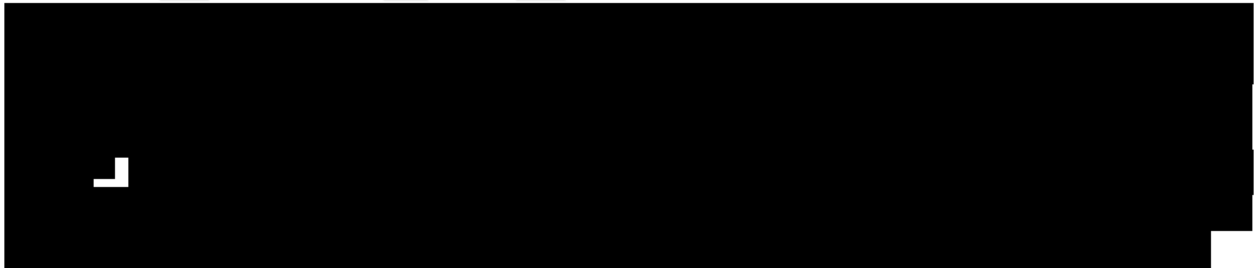
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A single line of text is redacted with a solid black box.



A block of text is redacted with a solid black box.



A block of text is redacted with a solid black box.



A single line of text is redacted with a solid black box.

---



A list item is redacted with a solid black box. The list item is preceded by a small square bullet point.

(b) (5)

[Redacted text block]

[Redacted text block]

[Redacted text block]

- [Redacted text]
- [Redacted text]
- [Redacted text]

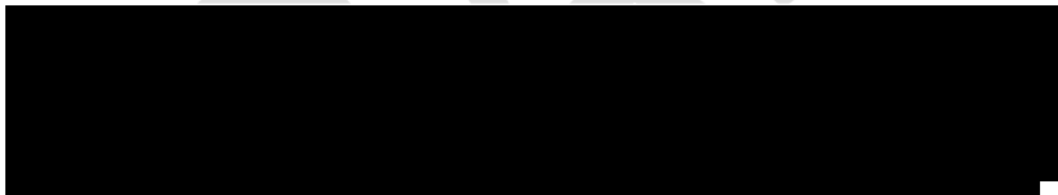


[Redacted text block]

[Redacted text block]

---

[Redacted text block]

(b) (5)



---



(b) (5)



---

(b) (5)



M-

Memorandum

To: Director, Bureau of Land Management

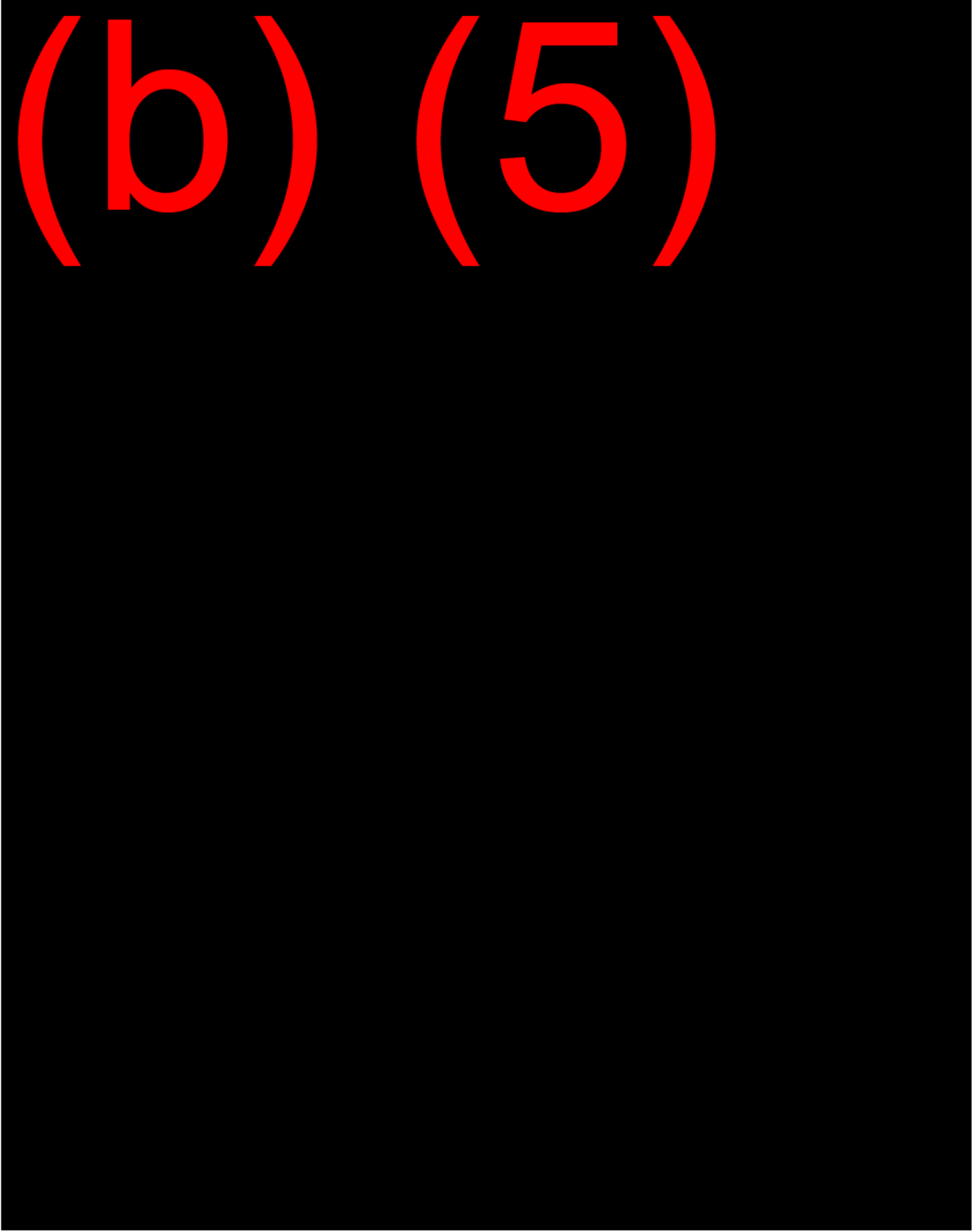
From: Solicitor

Subject: Reversal of M-37036, “Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-01353)”

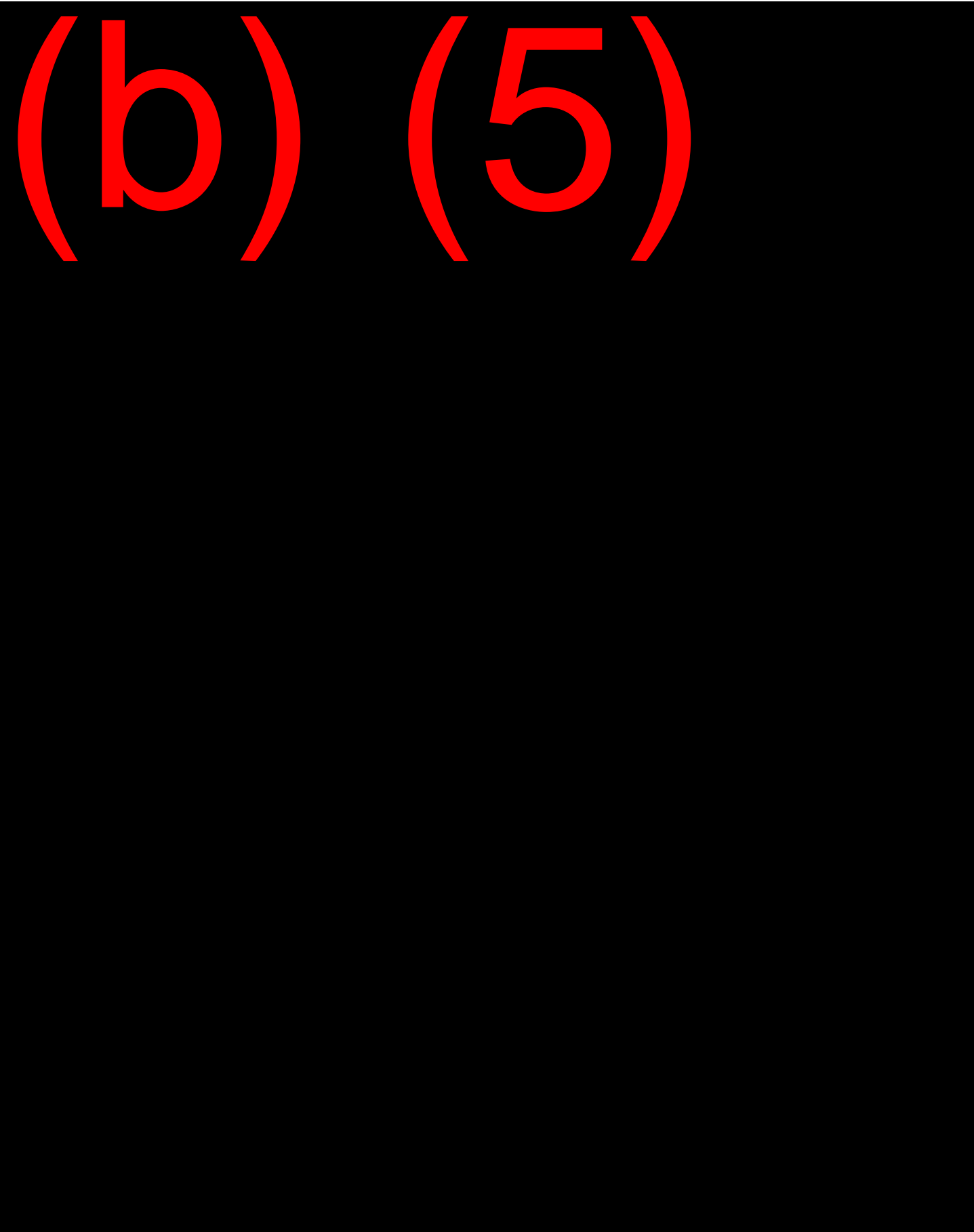
(b) (5)



(b) (5)

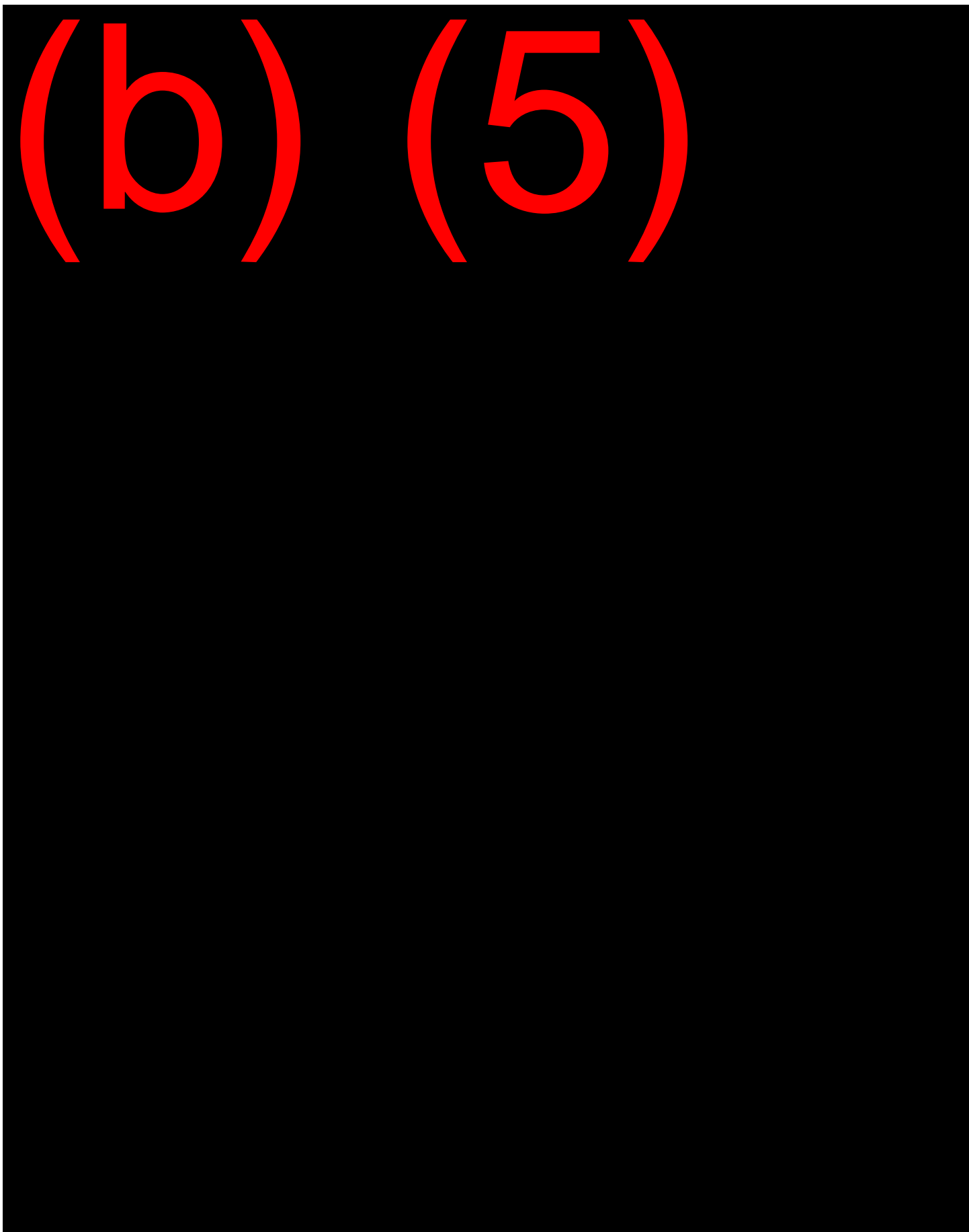


(b) (5)

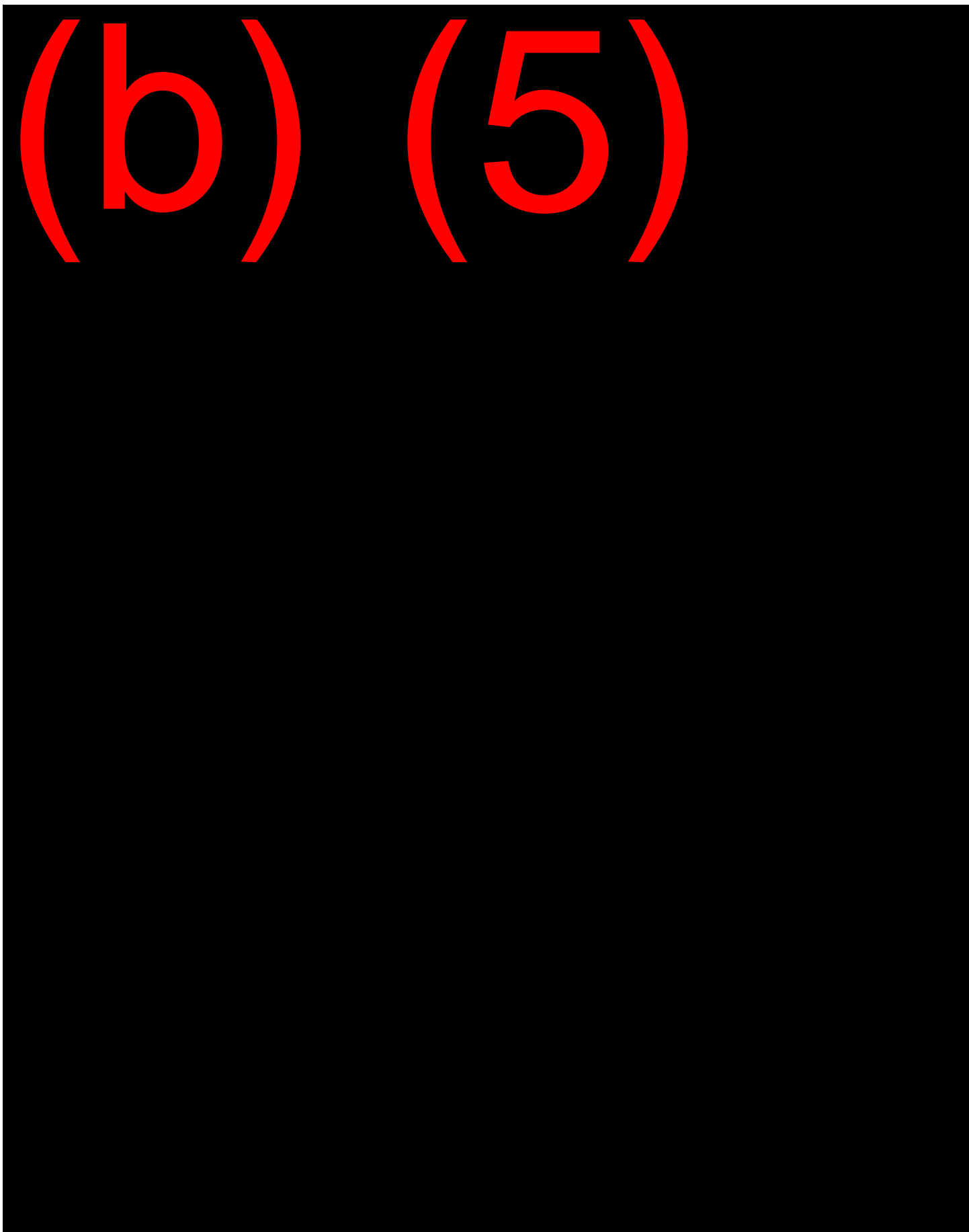




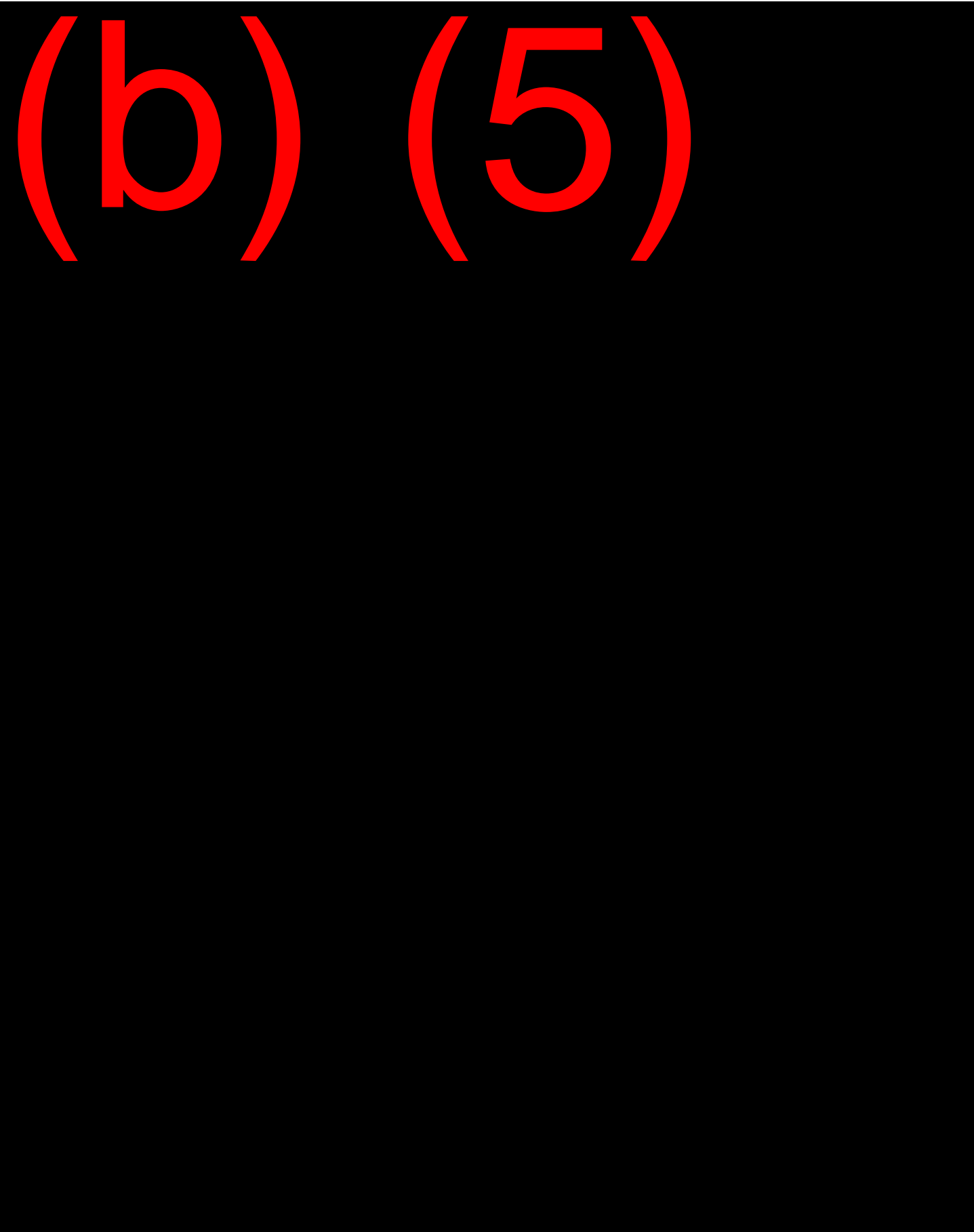
(b) (5)



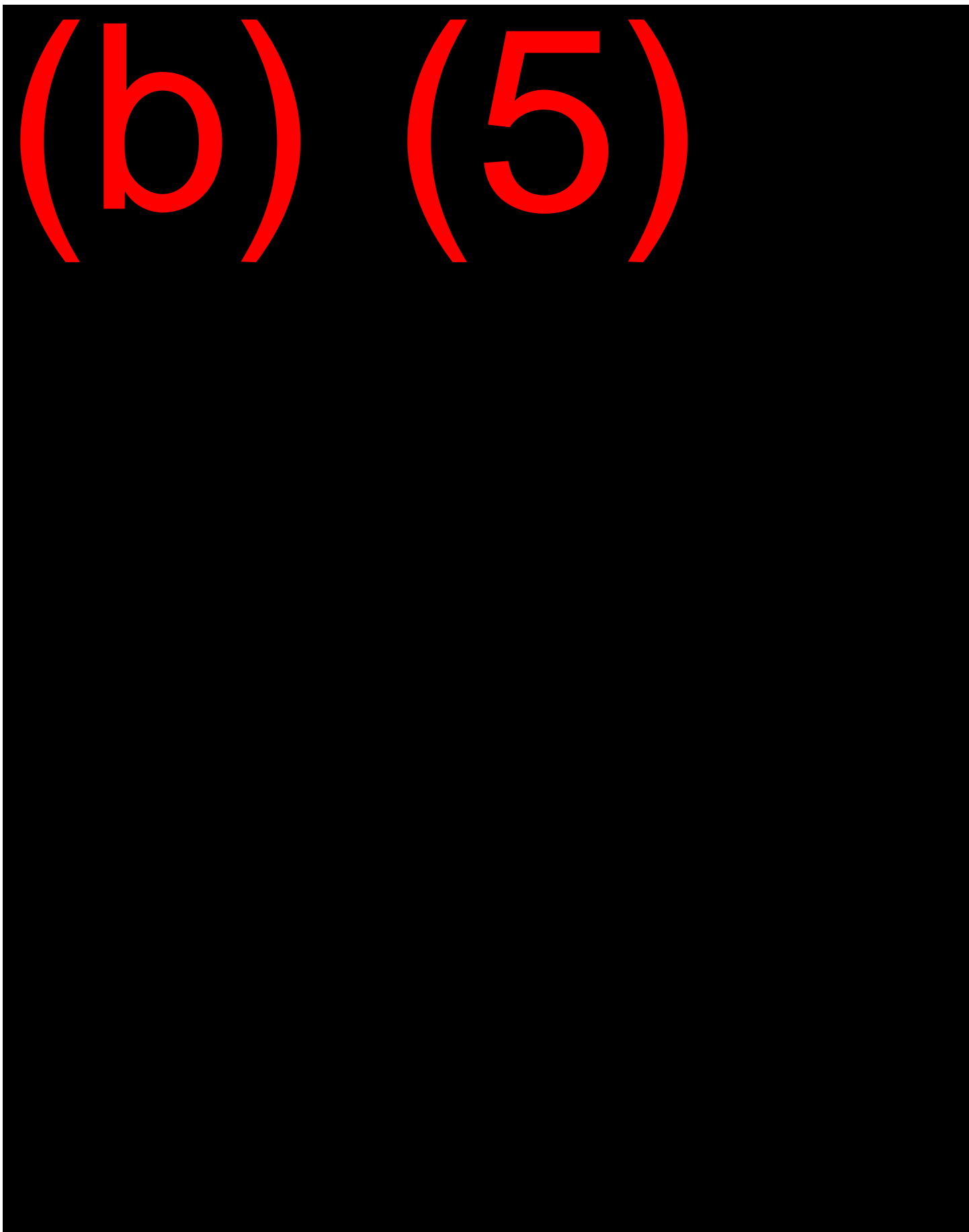
(b) (5)



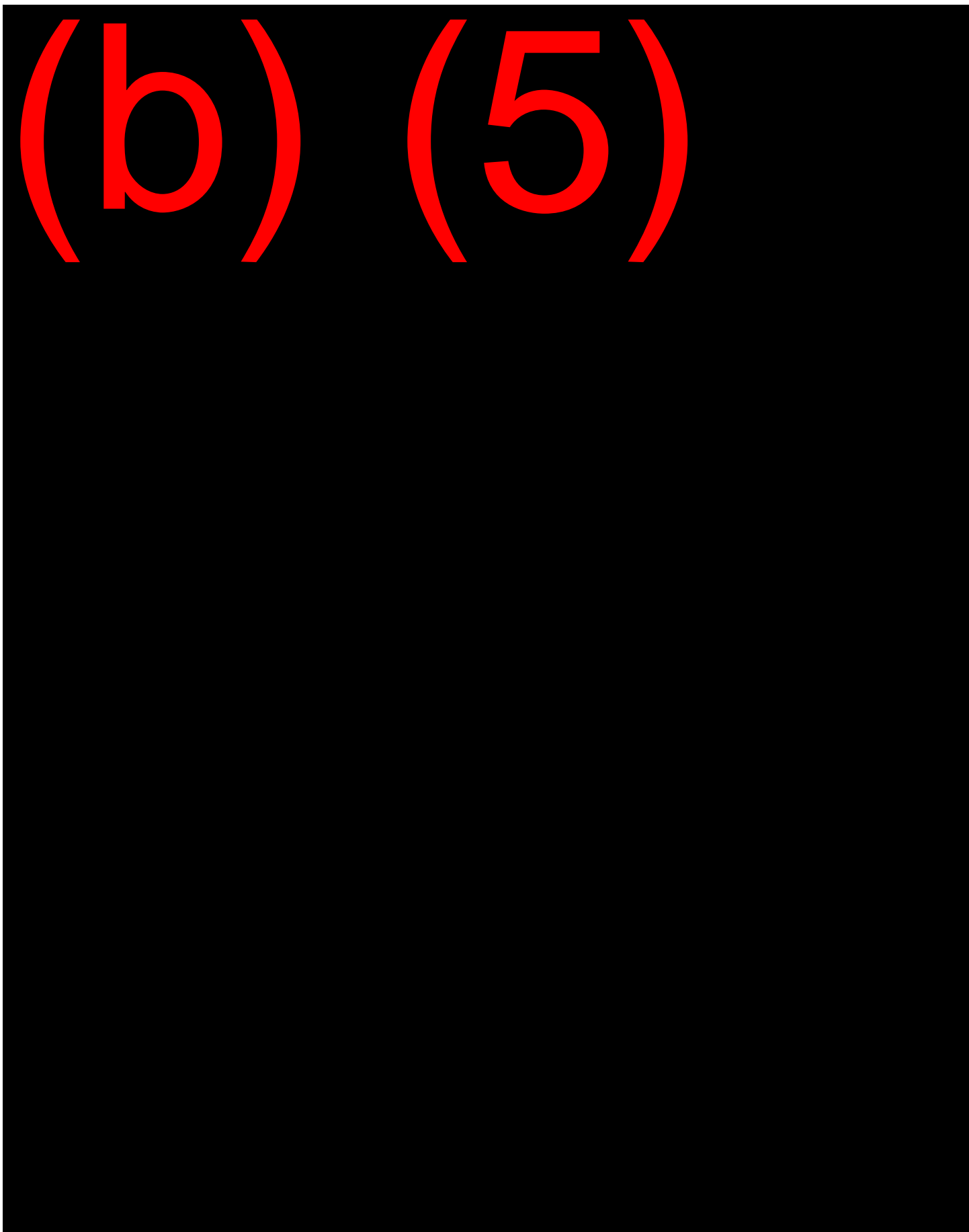
(b) (5)



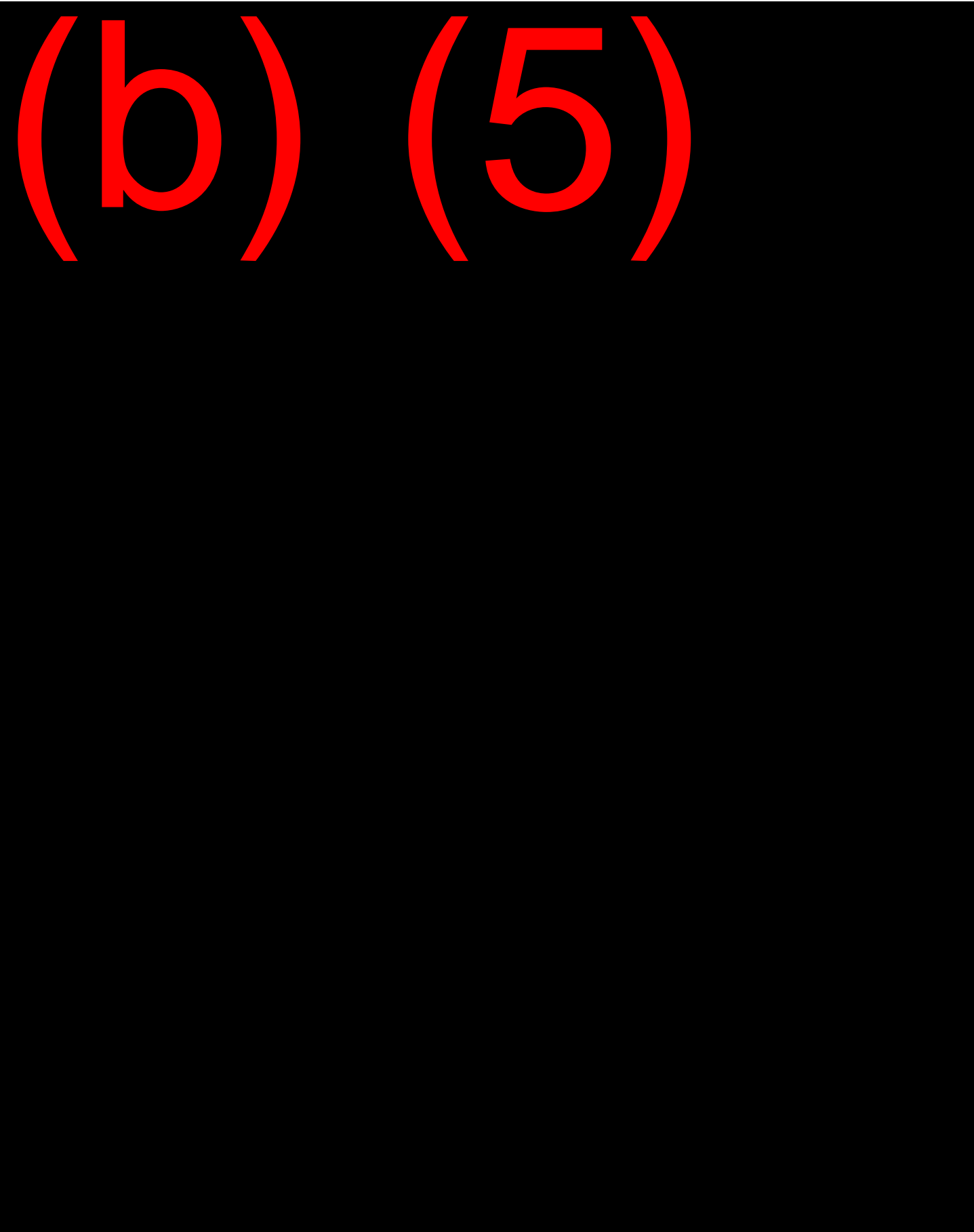
(b) (5)



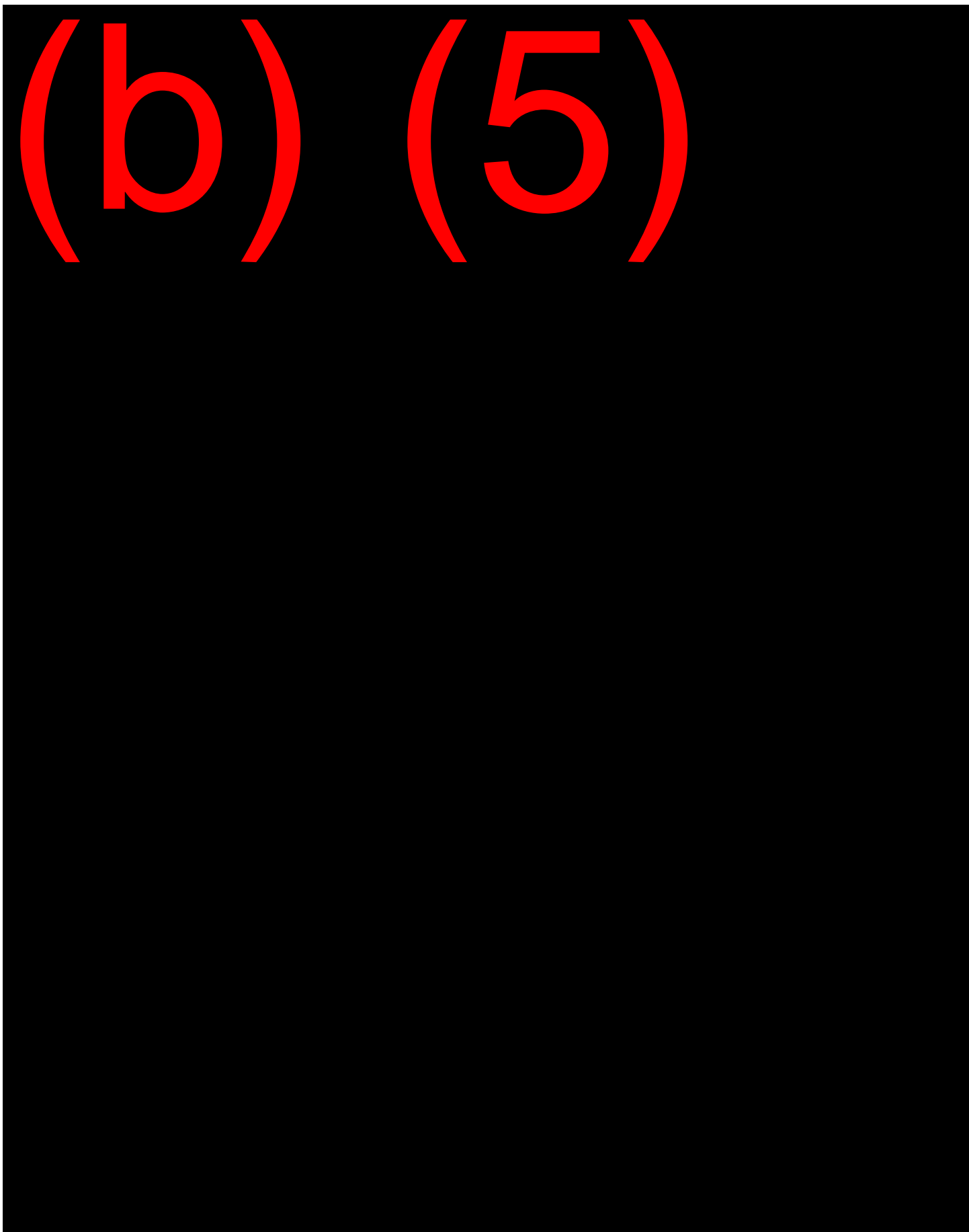
(b) (5)



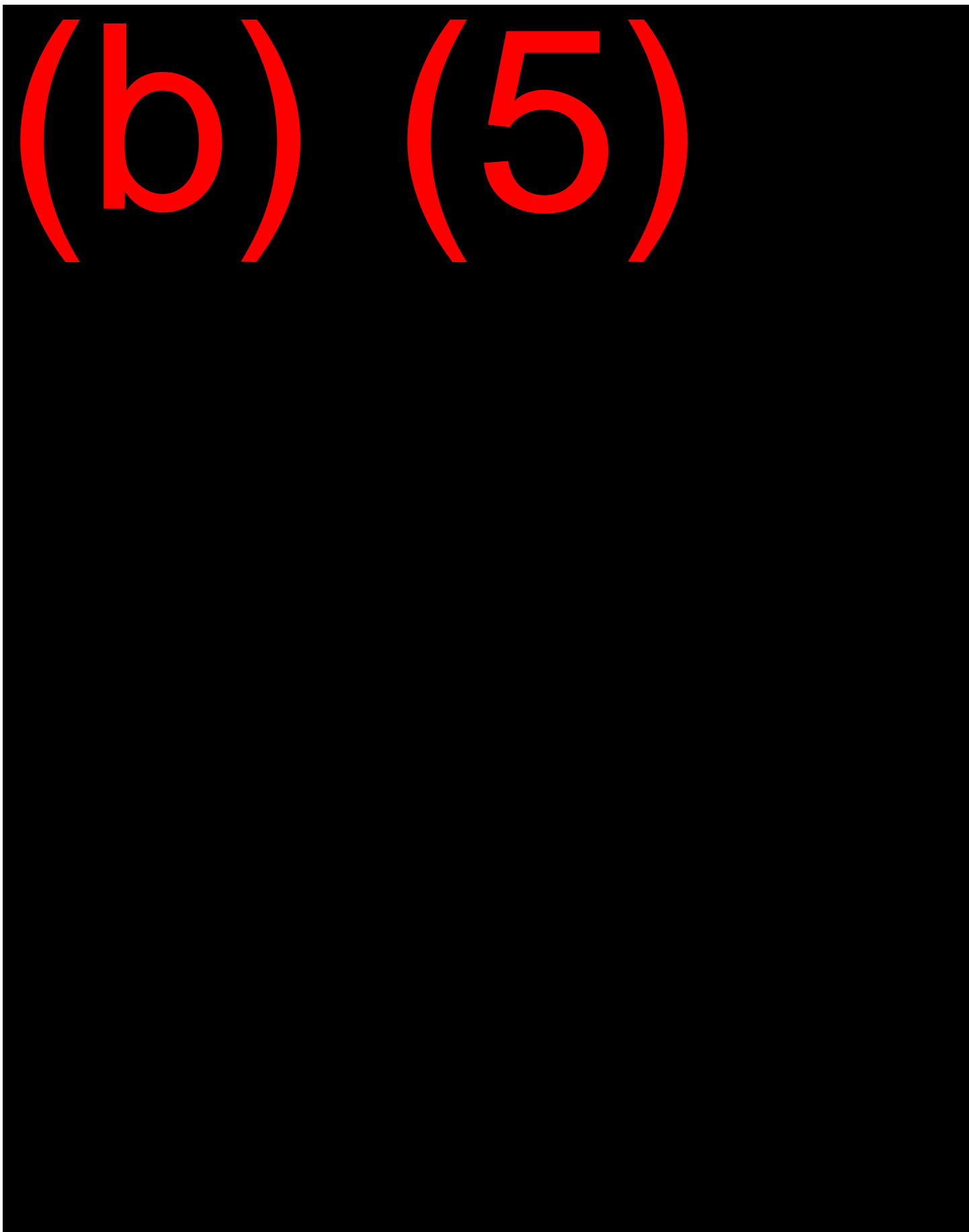
(b) (5)



(b) (5)

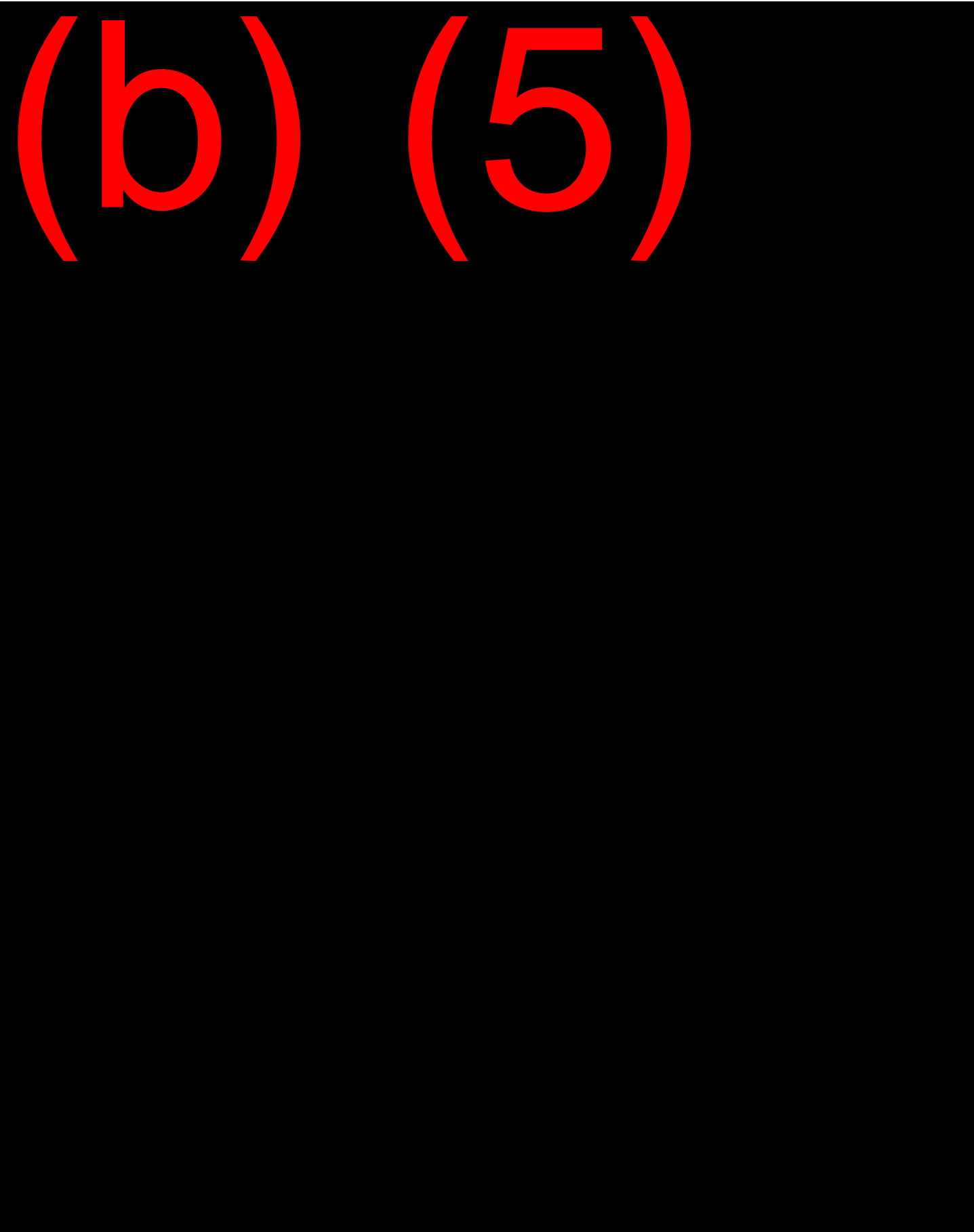


(b) (5)

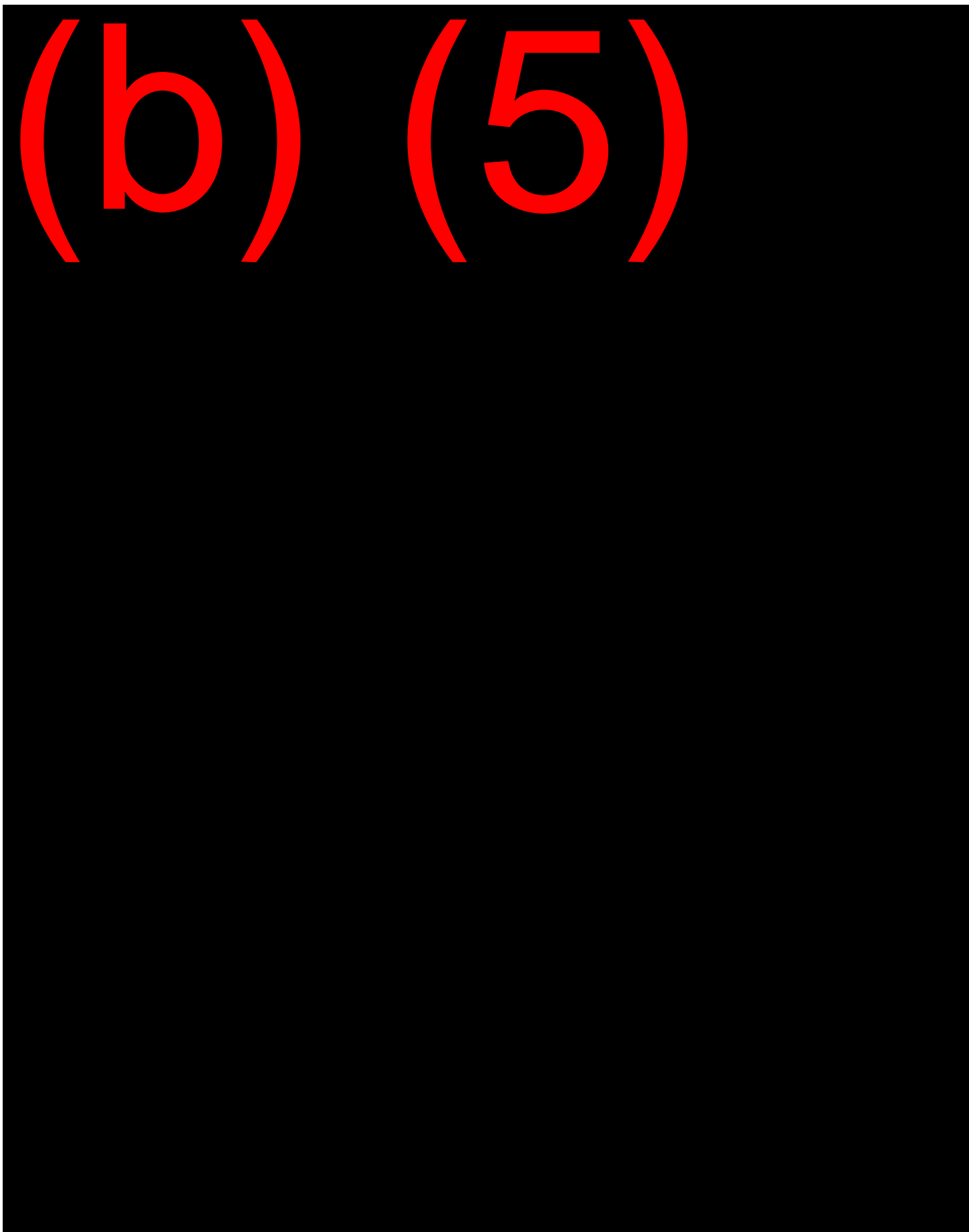




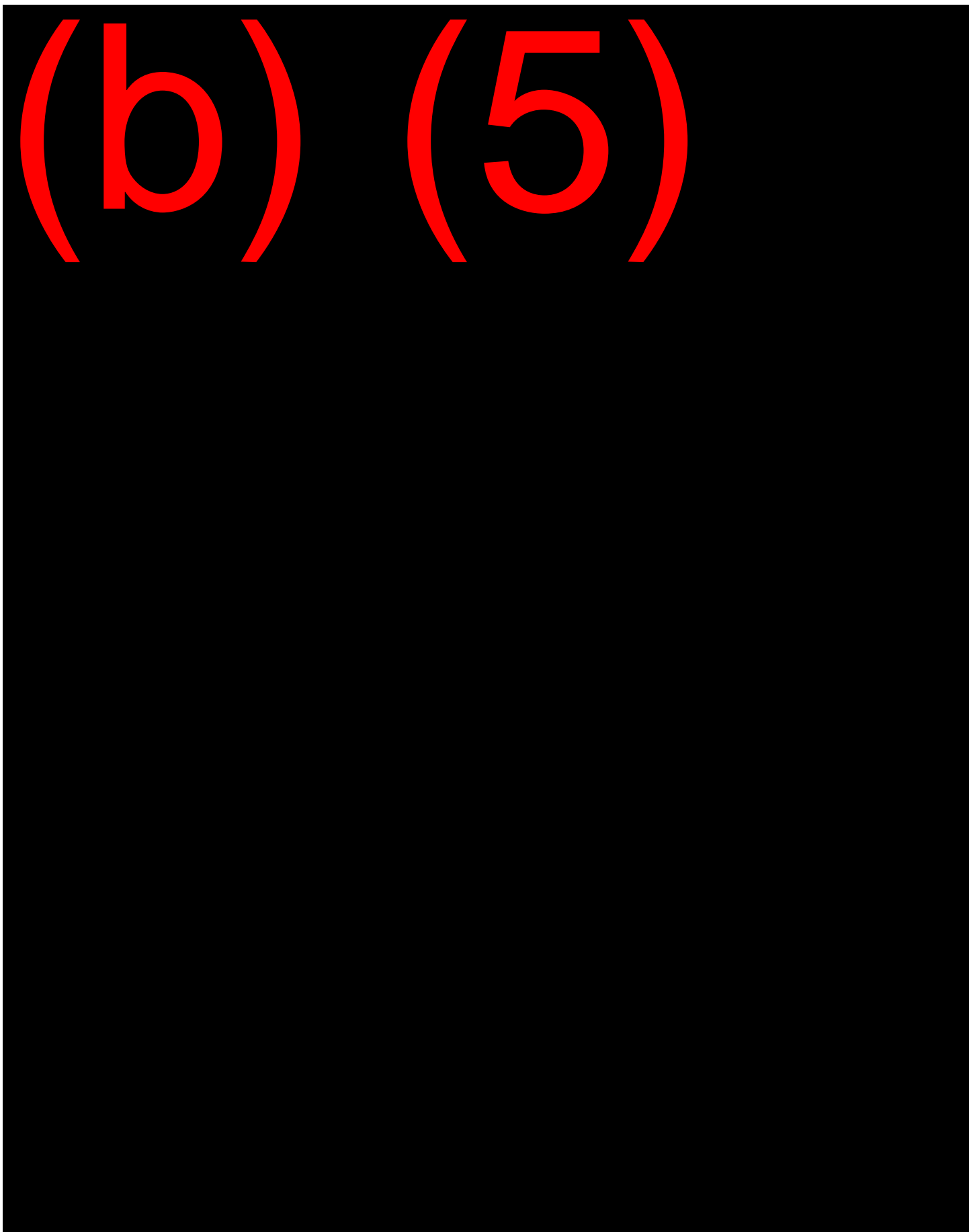
(b) (5)



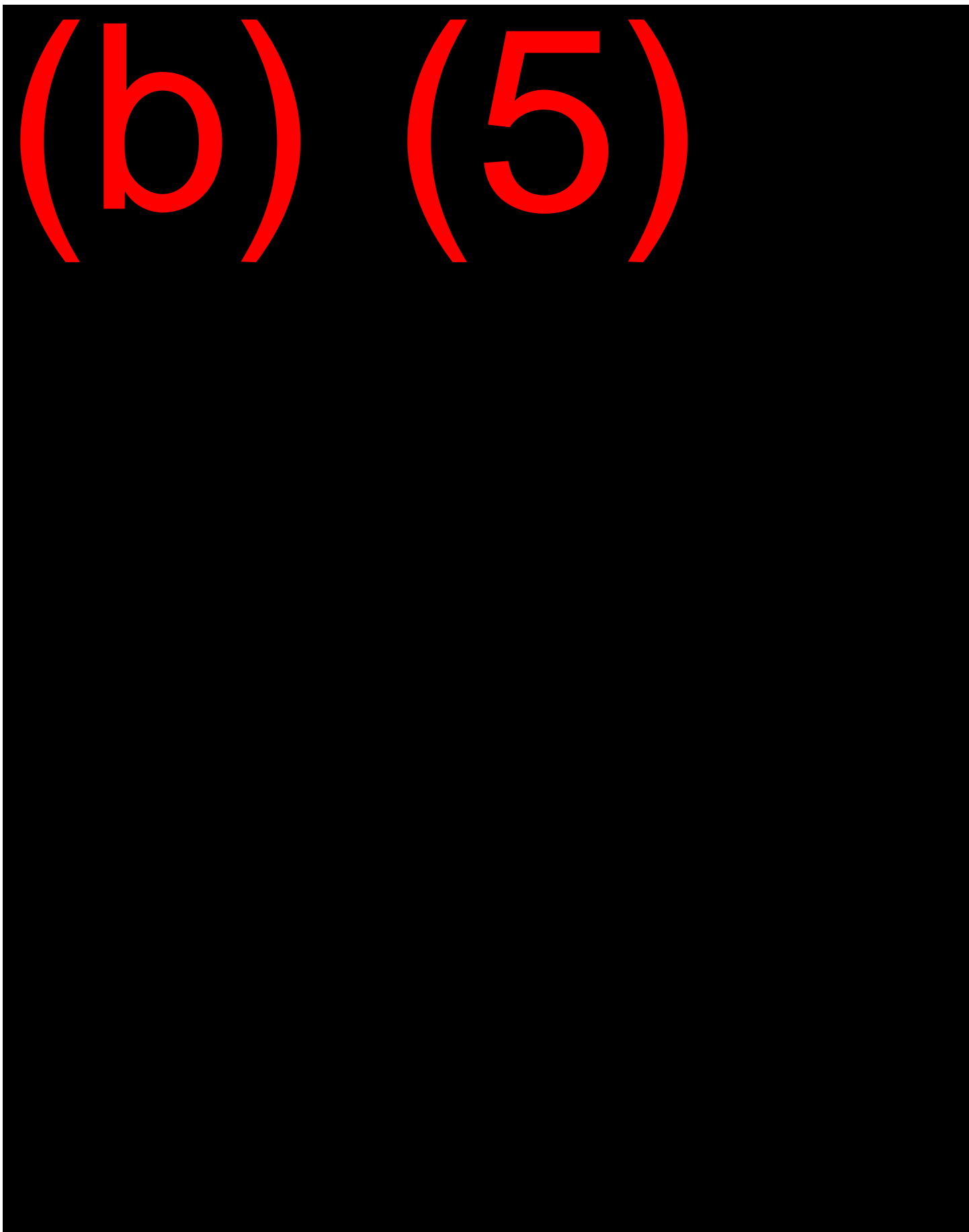
(b) (5)



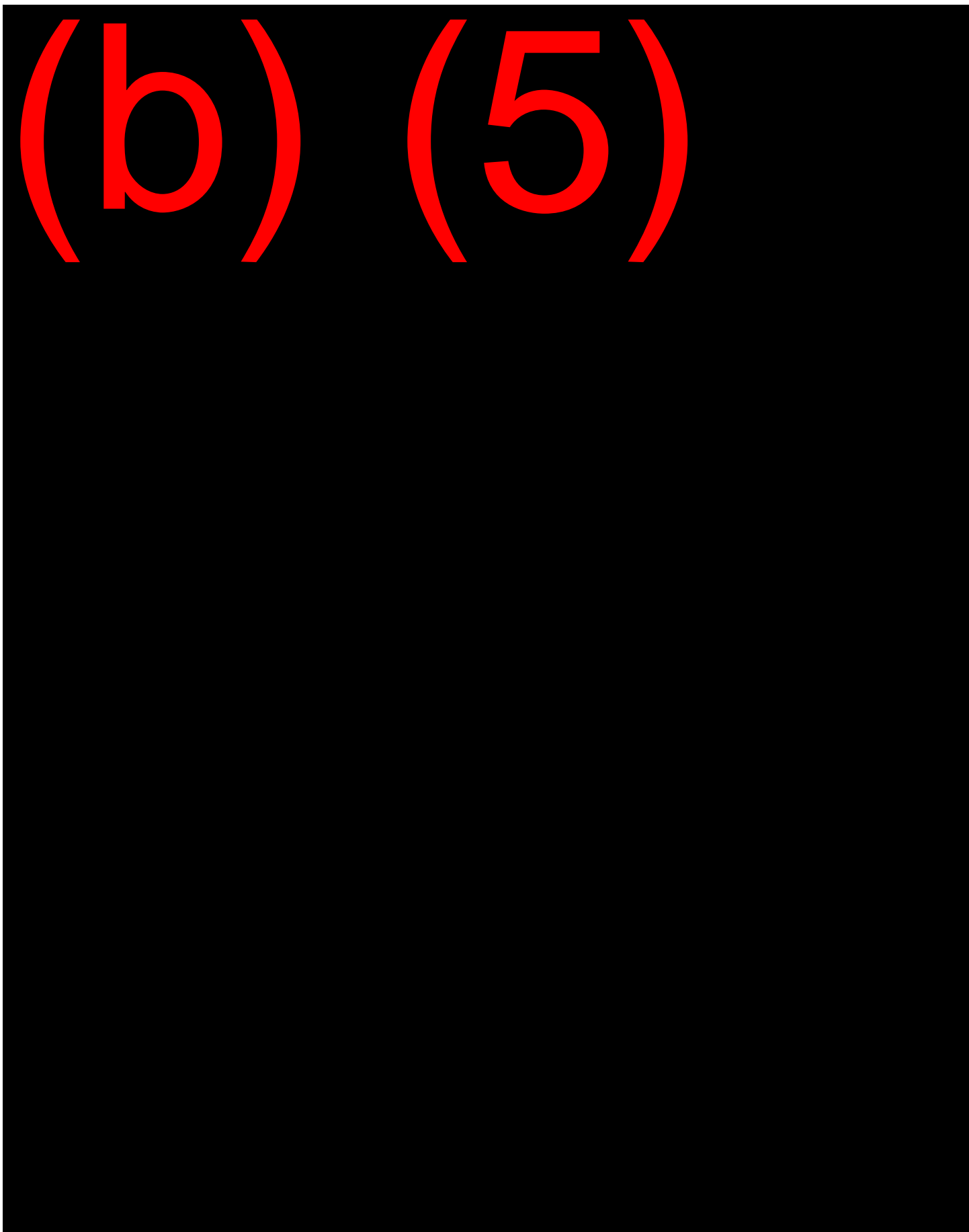
(b) (5)




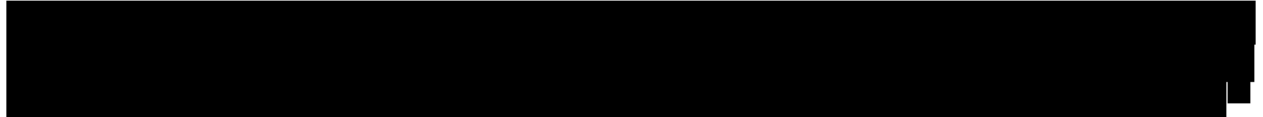

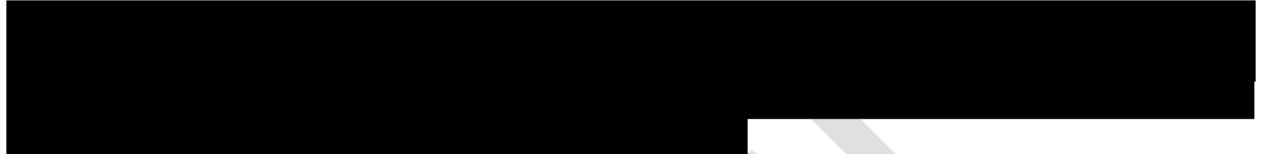
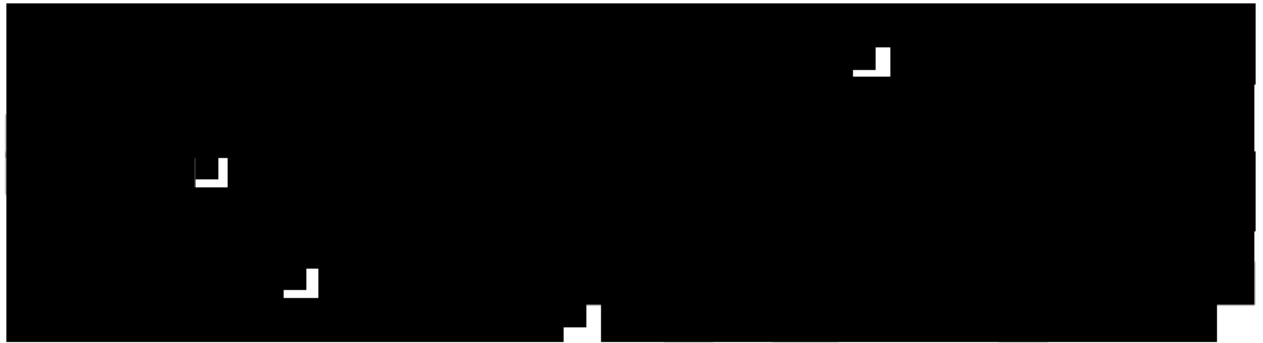
(b) (5)



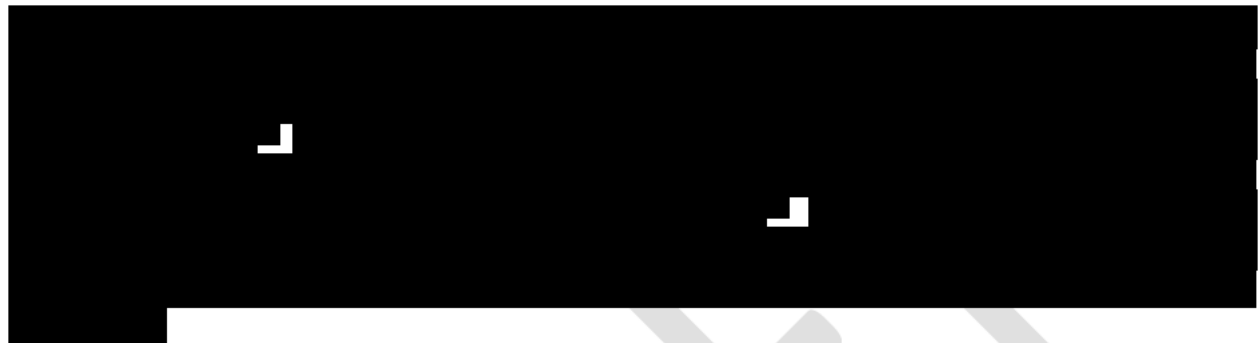
(b) (5)



(b) (5)



(b) (5)



---



(b) (5)



**Created by:**[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)

Total Messages in label:97 (20 conversations)

Created: 08-07-2018 at 11:52 AM



# Conversation Contents

**Fwd: Twin Metals**

**Attachments:**

/10. Fwd: Twin Metals/1.1 Twin Metals -- Alternative Draft with KJH.docx

**Karen Hawbecker** <karen.hawbecker@sol.doi.gov>

---

**From:** Karen Hawbecker <karen.hawbecker@sol.doi.gov>  
**Sent:** Wed Nov 22 2017 07:13:26 GMT-0700 (MST)  
**To:** Richard McNeer <Richard.McNeer@sol.doi.gov>, brian.collier@sol.doi.gov, Steve Harris <steve.harris@sol.doi.gov>  
**Subject:** Fwd: Twin Metals  
**Attachments:** Twin Metals -- Alternative Draft with KJH.docx

Jack sent this draft to me last night, which I didn't see until after 10 pm. Just as I was about to begin looking at it, he sent an email at 10:25 pm telling me to ignore his earlier email and saying that he had sent the wrong version and that he had modified the last few pages in another version at the office that he didn't have access to at home. I asked if the early parts of the memo were going to change, but then I fell asleep before getting an answer. He sent a later email saying that he was focusing on the end of the memo now. You can see in this email that he said he is still working on it and that he thought it was still pretty rough. Nevertheless, I think we should start looking at the first fifteen or so pages. Keep in mind that the last pages are still in flux. I will look at this too. Becoming familiar with it now will help the review process on a later version too, I think. —Karen

Sent from my iPad

Begin forwarded message:

**From:** "Haugrud, Kevin" <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)>  
**Date:** November 21, 2017 at 5:46:03 PM CST  
**To:** Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>  
**Subject:** Twin Metals

Karen: In case you have time, and hopefully for your sake you do not, I'm attaching my revised version of the M-Opinion. It's pretty rough, and I will continue to work on it tonight, but wanted to get your feedback on the overall structure and arguments. Right now, the main argument that is completely missing is (b) (5)

(b) (5)

(b) (5)

**Karen Hawbecker** <karen.hawbecker@sol.doi.gov>

---

**From:** Karen Hawbecker <karen.hawbecker@sol.doi.gov>  
**Sent:** Wed Nov 22 2017 07:23:13 GMT-0700 (MST)  
**To:** Richard McNeer <Richard.McNeer@sol.doi.gov>, "briana.collier@sol.doi.gov" <briana.collier@sol.doi.gov>, Steve Harris <steve.harris@sol.doi.gov>  
**Subject:** Re: Twin Metals

I emailed Jack to tell him I was going to ask you to begin review of this draft. He said not to do that and that he would send a new version in the next hour. Please hold off on this version.

Sent from my iPad

On Nov 22, 2017, at 8:13 AM, Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)> wrote:

Jack sent this draft to me last night, which I didn't see until after 10 pm. Just as I was about to begin looking at it, he sent an email at 10:25 pm telling me to ignore his earlier email and saying that he had sent the wrong version and that he had modified the last few pages in another version at the office that he didn't have access to at home. I asked if the early parts of the memo were going to change, but then I fell asleep before getting an answer. He sent a later email saying that he was focusing on the end of the memo now. You can see in this email that he said he is still working on it and that he thought it was still pretty rough. Nevertheless, I think we should start looking at the first fifteen or so pages. Keep in mind that the last pages are still in flux. I will look at this too. Becoming familiar with it now will help the review process on a later version too, I think. —Karen

Sent from my iPad

Begin forwarded message:

**From:** "Haugrud, Kevin" <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)>  
**Date:** November 21, 2017 at 5:46:03 PM CST  
**To:** Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>  
**Subject:** Twin Metals

Karen: In case you have time, and hopefully for your sake you do not, I'm attaching my revised version of the M-Opinion. It's pretty rough, and I will continue to work on it tonight, but wanted to get your feedback on the overall structure and arguments. Right now, the main argument that is completely missing is (b) (5)

(b) (5)

(b) (5)

<mime-attachment.html>

<Twin Metals -- Alternative Draft with KJH.docx>

**"Harris, Steve" <steve.harris@sol.doi.gov>**

---

**From:** "Harris, Steve" <steve.harris@sol.doi.gov>  
**Sent:** Wed Nov 22 2017 07:46:44 GMT-0700 (MST)  
**To:** Karen Hawbecker <karen.hawbecker@sol.doi.gov>  
**CC:** Richard McNeer <Richard.McNeer@sol.doi.gov>, "briana.collier@sol.doi.gov" <briana.collier@sol.doi.gov>  
**Subject:** Re: Twin Metals

I can probably work through some of this while waiting. If he's citing to the same stuff (footnotes, memos, etc.), I can check those and then compare.

On Wed, Nov 22, 2017 at 9:23 AM, Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)> wrote:  
I emailed Jack to tell him I was going to ask you to begin review of this draft. He said not to do that and that he would send a new version in the next hour. Please hold off on this version.

Sent from my iPad

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Jack sent this draft to me last night, which I didn't see until after 10 pm. Just as I was about to begin looking at it, he sent an email at 10:25 pm telling me to ignore his earlier email and saying that he had sent the wrong version and that he had modified the last few pages in another version at the office that he didn't have access to at home. I asked if the early parts of the memo were going to change, but then I fell asleep before getting an answer. He sent a later email saying that he was focusing on the end of the memo now. You can see in this email that he said he is still working on it and that he thought it was still pretty rough. Nevertheless, I think we should start looking at the first fifteen or so pages. Keep in mind that the last pages are still in flux. I will look at this too. Becoming familiar with it now will help the review process on a later version too, I think. —Karen

Sent from my iPad

Begin forwarded message:

**From:** "Haugrud, Kevin" <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)>  
**Date:** November 21, 2017 at 5:46:03 PM CST  
**To:** Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>  
**Subject:** Twin Metals

argument that is completely missing is (b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

(b) (5)

<Twin Metals -- Alternative Draft with KJH.docx>

Fax: (202) 208-2225

**NOTICE:** This electronic mail message (including any attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient or the employee or agent responsible for delivery of this message to the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of this message or its contents is strictly prohibited. If you received this message in error, please notify the sender immediately and destroy all copies.

M-




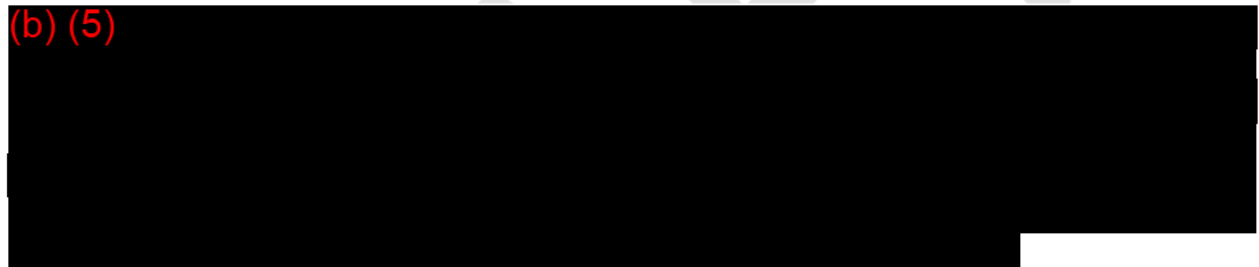
Memorandum

To: Director, Bureau of Land Management

From: Solicitor

Subject: Reversal of M-37036, “Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-01353)”

(b) (5)



(b) (5)

(b) (5)

(b) (5)



(b) (5)

(b) (5)

(b) (5)

(b) (5)

(b) (5)

(b) (5)

(b) (5)

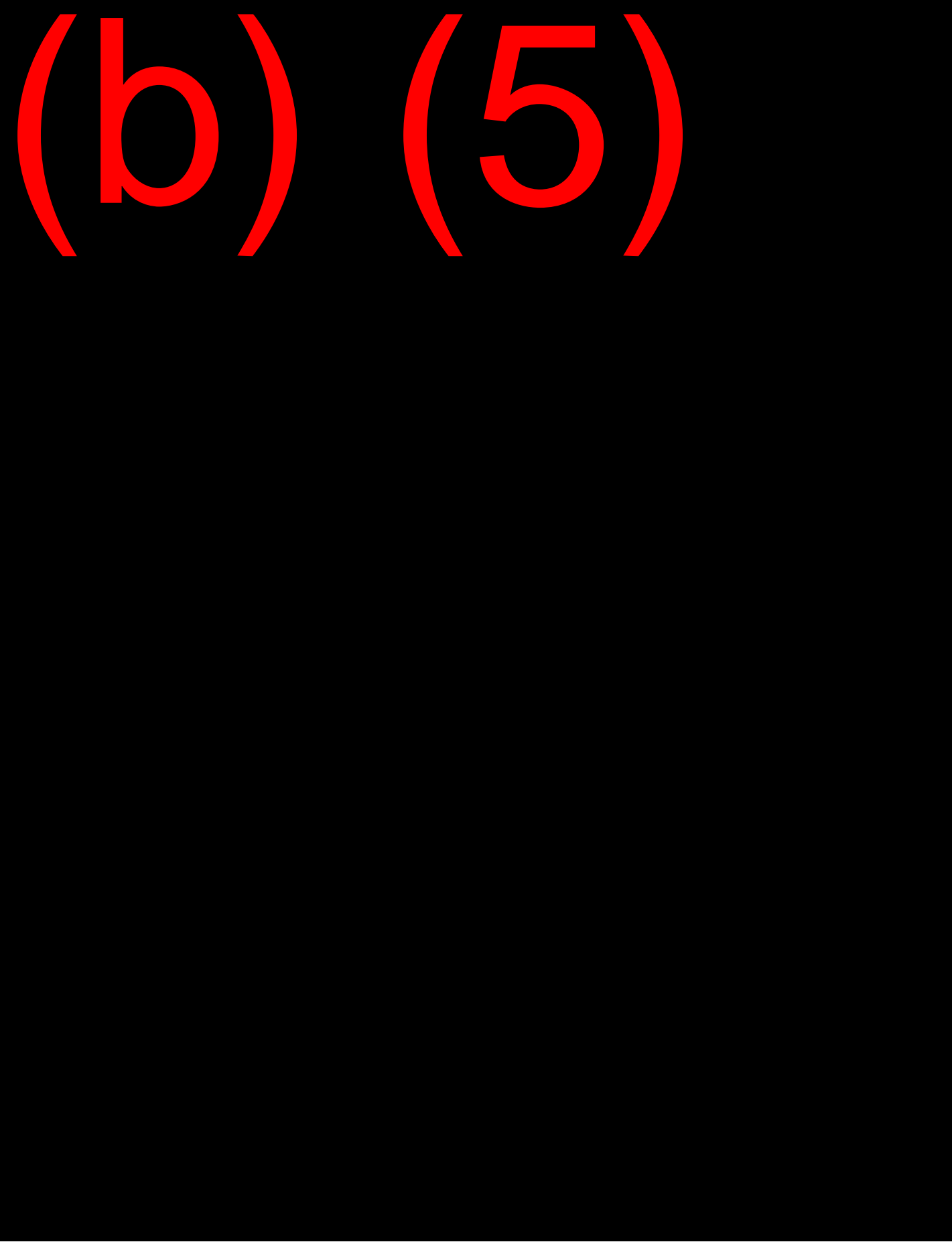
(b) (5)



(b) (5)

(b) (5)

(b) (5)



(b) (5)

(b) (5)

(b) (5)



**Created by:**[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)

Total Messages in label:97 (20 conversations)

Created: 08-07-2018 at 11:53 AM

# Conversation Contents

## Twin Metals Question

### Attachments:

/11. Twin Metals Question/4.1 1989 Renewals 2.pdf  
/11. Twin Metals Question/4.2 2004 Renewals 2.pdf

**"Haugrud, Kevin" <jack.haugrud@sol.doi.gov>**

---

**From:** "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>  
**Sent:** Tue Nov 21 2017 08:35:03 GMT-0700 (MST)  
**To:** Briana Collier <briana.collier@sol.doi.gov>  
**Subject:** Twin Metals Question

Briana: In the draft opinion, (b) (5)



**"Haugrud, Kevin" <jack.haugrud@sol.doi.gov>**

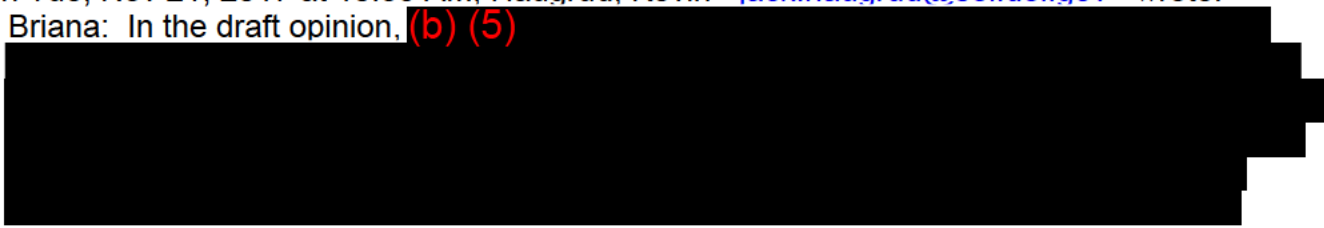
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**From:** "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>  
**Sent:** Tue Nov 21 2017 08:39:02 GMT-0700 (MST)  
**To:** Briana Collier <briana.collier@sol.doi.gov>  
**Subject:** Re: Twin Metals Question

I should have clarified my question below. Were the asterisks next to section 2(a) and 2(b) in the original leases or the standard forms. The copies of the standard forms I have don't show any asterisks.

On Tue, Nov 21, 2017 at 10:35 AM, Haugrud, Kevin <jack.haugrud@sol.doi.gov> wrote:

Briana: In the draft opinion, (b) (5)



original lease agreement.” 1989 lease renewal forms, at 2–3.”

(b) (5)

**"Collier, Briana" <briana.collier@sol.doi.gov>**

---

**From:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**Sent:** Tue Nov 21 2017 08:40:40 GMT-0700 (MST)  
**To:** "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>  
**Subject:** Re: Twin Metals Question

Hi Jack, (b) (5)

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

Phone: (202) 208-4853

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On Tue, Nov 21, 2017 at 8:35 AM, Haugrud, Kevin <jack.haugrud@sol.doi.gov> wrote:

Briana: In the draft opinion, (b) (5)

**"Collier, Briana" <briana.collier@sol.doi.gov>**

---

**From:** "Collier, Briana" <briana.collier@sol.doi.gov>



**Sent:** Tue Nov 21 2017 08:54:27 GMT-0700 (MST)  
**To:** "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>  
**Subject:** Re: Twin Metals Question  
**Attachments:** 1989 Renewals 2.pdf 2004 Renewals 2.pdf

(b) (5)



Also, FYI, IT is still working on getting me a phone line in Albuquerque, and they made me unforward my DC number, so right now I only have my personal cell line. It is (b) (6) if you need to reach me by phone. Let me know if you have other questions I can help with. Thank you.


Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

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On Tue, Nov 21, 2017 at 8:40 AM, Collier, Briana <briana.collier@sol.doi.gov> wrote:

Hi Jack, (b) (5)



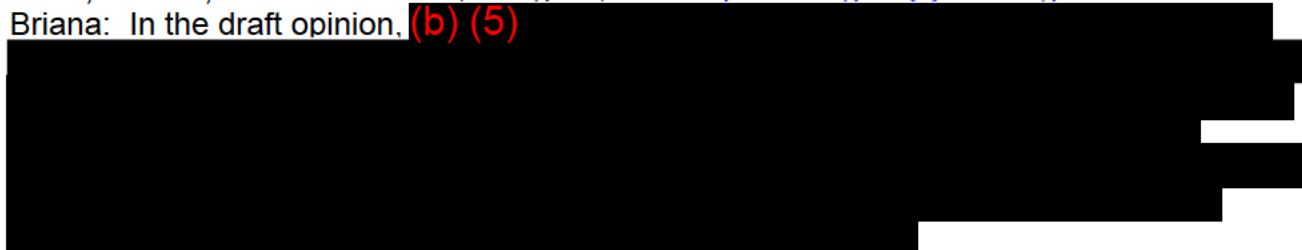
Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
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On Tue, Nov 21, 2017 at 8:35 AM, Haugrud, Kevin <jack.haugrud@sol.doi.gov> wrote:

Briana: In the draft opinion, (b) (5)



(b) (5)



Supplemental and Amended Complaint

---

## **EXHIBIT 2**

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

Renewal Preference Right LEASE

Serial Number

MNES 1352

PART I. LEASE RIGHTS GRANTED.

This ☐ Lease ☒ Lease Renewal entered into by and between the UNITED STATES OF AMERICA, through the Bureau of Land Management, hereinafter called lessor, and (Name and Address)

INCO Alloys International, Inc.

One New York Plaza

New York, New York 10004

hereinafter called lessee, is effective (date)

JUL 01 1989

, for a period of ten years,

Sodium, Sulphur, Hardrock -

☒ with preferential right in the lessee to renew for successive periods of ten years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.

Potassium, Phosphate, Gilsonite -

☐ and for so long thereafter as lessee complies with the terms and conditions of this lease which are subject to readjustment at the end of each year period, unless otherwise provided by law.

Sec. 1. This lease is issued pursuant and subject to the terms and provisions of the:

☐ Mineral Leasing Act of 1920, as amended, and supplemented, 41 Stat. 437, 30 U.S.C. 181-287, hereinafter referred to as the Act;

☐ Mineral Leasing Act for Acquired Lands, Act of August 7, 1947, 61 Stat. 913, 30 U.S.C. 351-359;

☒ Reorganization Plan No. 3 of 1946, 60 Stat. 1099 and 43 U.S.C. 1201;

☐ (Other)

to the regulations and general mining orders of the Secretary of the Interior in force on the date this lease issued.

Sec. 2. Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to explore for, drill for, mine, extract, remove, beneficiate, concentrate, or otherwise process and dispose of the copper deposits nickel and associated minerals hereinafter referred to as "leased deposits," in, upon, or under the following described lands:

see attached

containing 2,610.07 acres, more or less, together with the right to construct such works, buildings, plants, structures, equipment and appliances and the right to use such on-lease rights-of-way which may be necessary and convenient in the exercise of the rights and privileges granted, subject to the conditions herein provided.

Phosphate -

☐ In accordance with Section 11 of the Act (30 U.S.C. 213), lessee may use deposits of silica, limestone, or other rock in the processing or refining of the phosphates, phosphate rock, and associated or related minerals mined from the leased lands or other lands upon payments of royalty as set forth on the attachment to this lease. (Phosphate leases only.)

## PART II. TERMS AND CONDITIONS

Sec. 1. (a) RENTAL RATE - Lessee shall pay lessor rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate indicated below:

## Sulphur, Gilsonite -

☐ 50 cents for the first lease year and each succeeding lease year;

## Hardrock -

☐ \$1 for the first lease year and \$1 for each succeeding lease year;

## Phosphate -

☐ 25 cents for the first lease year, 50 cents for the second and third lease years, and \$1 for each and every lease year thereafter;

## Potassium, Sodium -

☐ 25 cents for the first calendar year or fraction thereof, 50 cents for the second, third, fourth, and fifth calendar years respectively, and \$1 for the sixth and each succeeding calendar year; or

Sodium, Sulphur, Asphalt, and Hardrock Renewal Leases -  
☒ \$ 1.00 for each lease year;

(b) RENTAL CREDITS - The rental for any year will be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

\* Sec. 2. (a) PRODUCTION ROYALTIES - Lessee shall pay lessor a production royalty in accordance with the attached schedule. Such production royalty is due the last day of the month next following the month in which the minerals are sold or removed from the leased lands.

\*\* (b) MINIMUM ANNUAL PRODUCTION AND MINIMUM ROYALTY - (1) Lessee shall produce on an annual basis a minimum amount of ~~8,000 lbs. of copper, nickel, or silver~~ <sup>of copper, nickel, or silver</sup>, except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. Lessor may permit suspension of operations under the lease when marketing conditions are such that the lease cannot be operated except at a loss. (2) At the request of the lessee, made prior to initiation of the lease year, the authorized officer may allow in writing the payment of a \$3.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year. Minimum royalty payments shall be credited to production royalties for that year.

Sec. 3. REDUCTION AND SUSPENSION - In accordance with Section 39 of the Mineral Leasing Act, 30 U.S.C. 209, the lessor reserves the authority to waive, suspend or reduce rental or minimum royalty, or to reduce royalty, and reserves the authority to assent to or order the suspension of this lease.

Sec. 4. BONDS - Lessee shall maintain in the proper office a lease bond in the amount of \$ 5,000.00, or in lieu thereof, an acceptable statewide or nationwide bond. The authorized officer may require an increase in this amount when additional coverage is determined appropriate.

Sec. 5. DOCUMENTS, EVIDENCE AND INSPECTION - At such times and in such form as lessor may prescribe, lessee

shall furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.

Lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of lessor, the leased premises and all surface and underground improvements, work, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.

Lessee shall either submit or provide lessor access to and copying of documents reasonably necessary to verify lessee compliance with terms and conditions of the lease.

While this lease remains in effect, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Sec. 6. DAMAGES TO PROPERTY AND CONDUCT OF OPERATIONS - Lessee shall exercise reasonable diligence, skill, and care in the operation of the property, and carry on all operations in accordance with approved methods and practices as provided in the operating regulations, having due regard for the prevention of injury to life, health or property, and of waste or damage to any water or mineral deposits.

Lessee shall not conduct exploration or operations, other than casual use, prior to receipt of necessary permits or approval of plans of operations by lessor.

Lessee shall carry on all operations in accordance with approved methods and practices as provided in the operating regulations, and the approved mining plans in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, minerals, and other resources, and to other land uses or users. Lessee shall take measures deemed necessary by lessor to accomplish the intent of this lease term. Such measures may include, but are not limited to, modification to proposed siting or design of facilities, timing of operations, and specification of interim and final reclamation procedures.

Lessor reserves to itself the right to lease, sell, or otherwise dispose of the surface or other mineral deposits in the lands and the right to continue existing uses and to authorize future uses upon or in the leased lands, including issuing leases for mineral deposits not covered hereunder or the approval of easements or rights-of-way. Lessor shall condition such uses to prevent unnecessary or unreasonable interference with rights of lessee as may be consistent with concepts of multiple use and multiple mineral development.

Sec. 7. PROTECTION OF DIVERSE INTERESTS, AND EQUAL OPPORTUNITY - Lessee shall: pay when due all taxes legally assessed and levied under the laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States; maintain a safe working environment in accordance with standard industry practices; restrict the workday to not more than 8 hours in any one day for underground workers, except in emergencies; and take measures necessary to protect the health and safety of the public. No person under the age of 16 years shall be employed in any mine below the surface. To the extent that laws of the State in which the lands are



• situated are more restrictive than the provisions in this paragraph, then the State laws apply.

Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec. 8. (a) TRANSFERS - This lease may be transferred in whole or in part to any person, association or corporation qualified to hold such lease interest.

(b) RELINQUISHMENT - The lessee may relinquish in writing at any time all rights under this lease or any portion thereof as provided in the regulations. Upon lessor's acceptance of the relinquishment, lessee shall be relieved of all future obligations under the lease or the relinquished portion thereof, whichever is applicable.

Sec. 9. DELIVERY OF PREMISES, REMOVAL OF MACHINERY, EQUIPMENT, ETC. - At such time as all or portions of this lease are returned to lessor, lessee shall deliver up to lessor the land leased, underground timbering, and such other supports and structures necessary for the preservation of the mine workings on the leased premises or deposits and place all wells in condition for suspension or abandonment. Within 180 days thereof, lessee shall remove from the premises all other structures, machinery, equipment, tools, and materials that it elects to or as required by the authorized officer. Any such structures, machinery, equipment, tools, and materials remaining on the leased lands beyond 180 days, or approved extension thereof, shall become the property of the lessor, but lessee shall either remove any or all such property or shall continue to be liable for the cost of removal and disposal in the amount actually incurred by the lessor. If the surface is owned by third parties, lessor shall waive the requirement for removal, provided the third parties do not object to such.

#### Sec. 14. SPECIAL STIPULATIONS -

\* The terms and conditions of the production royalties remains as stated in the attached original lease agreement.

\*\* The minimum annual production and minimum royalty is \$10.00 per acre or a fraction thereof as stated in the attached original lease agreement.

waiver. Lessee shall, prior to the termination of bond liability or at any other time when required and in accordance with all applicable laws and regulations, reclaim all lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities on the leased lands, and reclaim access roads or trails.

Sec. 10. PROCEEDINGS IN CASE OF DEFAULT - If lessee fails to comply with applicable laws, now existing regulations, or the terms, conditions and stipulations of this lease, and the noncompliance continues for 30 days after written notice thereof, this lease shall be subject to cancellation by the lessor only by judicial proceedings. This provision shall not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver shall not prevent later cancellation for the same default occurring at any other time.

Sec. 11. HEIRS AND SUCCESSORS-IN-INTEREST - Each obligation of this lease shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. INDEMNIFICATION - Lessee shall indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under this lease.

Sec. 13. SPECIAL STATUTES - This lease is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151-1175), the Clean Air Act (42 U.S.C. 1857 et. seq.), and to all other applicable laws pertaining to exploration activities, mining operations and reclamation.

## Sec. 14. SPECIAL STIPULATIONS - (Cont.)

THE UNITED STATES OF AMERICA

INCO ALLOYS INTERNATIONAL, INC

Company or Lessee Name

By

X By Dylan L. Anderson  
(Signature of Lessee)

X Chief Legal Officer & Secretary  
(Title)

X May 5, 1989  
(Date)

Stuart J. Carlson  
(Signing Officer)

Deputy State Director for Mineral Resources  
(Title)

June 27, 1989  
(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

## NOTICE

The Privacy Act of 1974 and the regulations in 43 CFR 2.48(d) provides that you be furnished the following information in connection with information required under the terms of this lease.

AUTHORITY: 30 U.S.C. 181 et seq.; 43 CFR 3500.

PRINCIPAL PURPOSE: The information will be used to verify your compliance with the lease terms and in calculating royalty payments.

ROUTINE USES: (1) Evaluation of the effects of the operations on the environment. (2) Statistical reports to Congress. (3)(4) and (5) Information from the record and/or the record may be released or transferred to appropriate Federal, State or local agencies in allocating mineral revenue, for investigations of energy programs; and when relevant to civil, criminal or regulatory investigations or prosecutions, as well as routine regulatory responsibility.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of this information is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected for use in calculating royalty payments and in verification of compliance with lease terms.

Response to this request is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

Serial Number

Renewal Preference Right **LEASE**

MNES 1353

**PART I. LEASE RIGHTS GRANTED.**

This ☐ Lease ☒ Lease Renewal entered into by and between the UNITED STATES OF AMERICA, through the Bureau of Land Management, hereinafter called lessor, and (Name and Address)

INCO Alloys International, Inc.

One New York Plaza

New York, New York 10004

hereinafter called lessee, is effective (date)

**JUL 01 1989**

, for a period of ten years,

Sodium, Sulphur, Hardrock -

☒ with preferential right in the lessee to renew for successive periods of ten years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.

Potassium, Phosphate, Gilsonite -

☐ and for so long thereafter as lessee complies with the terms and conditions of this lease which are subject to readjustment at the end of each year period, unless otherwise provided by law.

Sec. 1. This lease is issued pursuant and subject to the terms and provisions of the:

☐ Mineral Leasing Act of 1920, as amended, and supplemented, 41 Stat. 437, 30 U.S.C. 181-287, hereinafter referred to as the Act;

☐ Mineral Leasing Act for Acquired Lands, Act of August 7, 1947, 61 Stat. 913, 30 U.S.C. 351-359;

☒ Reorganization Plan No. 3 of 1946, 60 Stat. 1099 and 43 U.S.C. 1201;

☐ (Other)

; and

to the regulations and general mining orders of the Secretary of the Interior in force on the date this lease issued.

Sec. 2. Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to explore for, drill for, mine, extract, remove, beneficiate, concentrate, or otherwise process and dispose of the copper deposits nickel and associated minerals hereinafter referred to as "leased deposits," in, upon, or under the following described lands:

see attached

containing 2,254.71 acres, more or less, together with the right to construct such works, buildings, plants, structures, equipment and appliances and the right to use such on-lease rights-of-way which may be necessary and convenient in the exercise of the rights and privileges granted, subject to the conditions herein provided.

Phosphate -

☐ In accordance with Section 11 of the Act (30 U.S.C. 213), lessee may use deposits of silica, limestone, or other rock in the processing or refining of the phosphates, phosphate rock, and associated or related minerals mined from the leased lands or other lands upon payments of royalty as set forth on the attachment to this lease. (Phosphate leases only.)



## PART II. TERMS AND CONDITIONS

Sec. 1. (a) RENTAL RATE - Lessee shall pay lessor rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate indicated below:

*Sulphur, Gilsonite -*

☐ 50 cents for the first lease year and each succeeding lease year;

*Hardrock -*

☐ \$1 for the first lease year and \$1 for each succeeding lease year;

*Phosphate -*

☐ 25 cents for the first lease year, 50 cents for the second and third lease years, and \$1 for each and every lease year thereafter;

*Potassium, Sodium -*

☐ 25 cents for the first calendar year or fraction thereof, 50 cents for the second, third, fourth, and fifth calendar years respectively, and \$1 for the sixth and each succeeding calendar year; or

*Sodium, Sulphur, Asphalt, and Hardrock Renewal Leases -*

☒ \$ 1.00 for each lease year;

(b) RENTAL CREDITS - The rental for any year will be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

\* Sec. 2. (a) PRODUCTION ROYALTIES - Lessee shall pay lessor a production royalty in accordance with the attached schedule. Such production royalty is due the last day of the month next following the month in which the minerals are sold or removed from the leased lands.

\*\* (b) MINIMUM ANNUAL PRODUCTION AND MINIMUM ROYALTY - (1) Lessee shall produce, on an annual basis a minimum amount of copper, nickel, & assoc. mins., except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. Lessor may permit suspension of operations under the lease when marketing conditions are such that the lease cannot be operated except at a loss. (2) At the request of the lessee, made prior to initiation of the lease year, the authorized officer may allow in writing the payment of a \$3.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year. Minimum royalty payments shall be credited to production royalties for that year.

Sec. 3. REDUCTION AND SUSPENSION - In accordance with Section 39 of the Mineral Leasing Act, 30 U.S.C. 209, the lessor reserves the authority to waive, suspend or reduce rental or minimum royalty, or to reduce royalty, and reserves the authority to assent to or order the suspension of this lease.

Sec. 4. BONDS - Lessee shall maintain in the proper office a lease bond in the amount of \$ 5,000, or in lieu thereof, an acceptable statewide or nationwide bond. The authorized officer may require an increase in this amount when additional coverage is determined appropriate.

Sec. 5. DOCUMENTS, EVIDENCE AND INSPECTION - At such times and in such form as lessor may prescribe, lessee

shall furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.

Lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of lessor, the leased premises and all surface and underground improvements, work, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.

Lessee shall either submit or provide lessor access to and copying of documents reasonably necessary to verify lessee compliance with terms and conditions of the lease.

While this lease remains in effect, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Sec. 6. DAMAGES TO PROPERTY AND CONDUCT OF OPERATIONS - Lessee shall exercise reasonable diligence, skill, and care in the operation of the property, and carry on all operations in accordance with approved methods and practices as provided in the operating regulations, having due regard for the prevention of injury to life, health or property, and of waste or damage to any water or mineral deposits.

Lessee shall not conduct exploration or operations, other than casual use, prior to receipt of necessary permits or approval of plans of operations by lessor.

Lessee shall carry on all operations in accordance with approved methods and practices as provided in the operating regulations, and the approved mining plans in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, minerals, and other resources, and to other land uses or users. Lessee shall take measures deemed necessary by lessor to accomplish the intent of this lease term. Such measures may include, but are not limited to, modification to proposed siting or design of facilities, timing of operations, and specification of interim and final reclamation procedures.

Lessor reserves to itself the right to lease, sell, or otherwise dispose of the surface or other mineral deposits in the lands and the right to continue existing uses and to authorize future uses upon or in the leased lands, including issuing leases for mineral deposits not covered hereunder or the approval of easements or rights-of-way. Lessor shall condition such uses to prevent unnecessary or unreasonable interference with rights of lessee as may be consistent with concepts of multiple use and multiple mineral development.

Sec. 7. PROTECTION OF DIVERSE INTERESTS, AND EQUAL OPPORTUNITY - Lessee shall: pay when due all taxes legally assessed and levied under the laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States; maintain a safe working environment in accordance with standard industry practices; restrict the workday to not more than 8 hours in any one day for underground workers, except in emergencies; and take measures necessary to protect the health and safety of the public. No person under the age of 16 years shall be employed in any mine below the surface. To the extent that laws of the State in which the lands are

situated are more restrictive than the provisions in this paragraph, then the State laws apply.

Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec. 8. (a) TRANSFERS - This lease may be transferred in whole or in part to any person, association or corporation qualified to hold such lease interest.

(b) RELINQUISHMENT - The lessee may relinquish in writing at any time all rights under this lease or any portion thereof as provided in the regulations. Upon lessor's acceptance of the relinquishment, lessee shall be relieved of all future obligations under the lease or the relinquished portion thereof, whichever is applicable.

Sec. 9. DELIVERY OF PREMISES, REMOVAL OF MACHINERY, EQUIPMENT, ETC. - At such time as all or portions of this lease are returned to lessor, lessee shall deliver up to lessor the land leased, underground timbering, and such other supports and structures necessary for the preservation of the mine workings on the leased premises or deposits and place all wells in condition for suspension or abandonment. Within 180 days thereof, lessee shall remove from the premises all other structures, machinery, equipment, tools, and materials that it elects to or as required by the authorized officer. Any such structures, machinery, equipment, tools, and materials remaining on the leased lands beyond 180 days, or approved extension thereof, shall become the property of the lessor, but lessee shall either remove any or all such property or shall continue to be liable for the cost of removal and disposal in the amount actually incurred by the lessor. If the surface is owned by third parties, lessor shall waive the requirement for removal, provided the third parties do not object to such

waiver. Lessee shall, prior to the termination of bond liability or at any other time when required and in accordance with all applicable laws and regulations, reclaim all lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities on the leased lands, and reclaim access roads or trails.

Sec. 10. PROCEEDINGS IN CASE OF DEFAULT - If lessee fails to comply with applicable laws, now existing regulations, or the terms, conditions and stipulations of this lease, and the noncompliance continues for 30 days after written notice thereof, this lease shall be subject to cancellation by the lessor only by judicial proceedings. This provision shall not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver shall not prevent later cancellation for the same default occurring at any other time.

Sec. 11. HEIRS AND SUCCESSORS-IN-INTEREST - Each obligation of this lease shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. INDEMNIFICATION - Lessee shall indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under this lease.

Sec. 13. SPECIAL STATUTES - This lease is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151-1175), the Clean Air Act (42 U.S.C. 1857 et. seq.), and to all other applicable laws pertaining to exploration activities, mining operations and reclamation.

Sec. 14. SPECIAL STIPULATIONS -

\* The terms and conditions of the production royalties remains as stated in the attached original lease agreement.

\*\* The minimum annual production and minimum royalty is \$10.00 per acre or a fraction thereof as stated in the attached original lease agreement.

## Sec. 14. SPECIAL STIPULATIONS - (Cont.)

THE UNITED STATES OF AMERICA

INCO ALLOTS INTERNATIONAL, INC

Company or Lessee Name

By *[Signature]*

(Signature of Lessee)

Chief Legal Officer &amp; Secretary

(Title)

May 5, 1989

(Date)

By

*[Signature]*

(Signing Officer)

Deputy State Director for Mineral Resources

(Title)

JUN 27 1989

(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

## NOTICE

The Privacy Act of 1974 and the regulations in 43 CFR 2.48(d) provides that you be furnished the following information in connection with information required under the terms of this lease.

AUTHORITY: 30 U.S.C. 181 et seq.; 43 CFR 3500.

PRINCIPAL PURPOSE: The information will be used to verify your compliance with the lease terms and in calculating royalty payments.

ROUTINE USES: (1) Evaluation of the effects of the operations on the environment. (2) Statistical reports to Congress. (3)(4) and (5) Information from the record and/or the record may be released or transferred to appropriate Federal, State or local agencies in allocating mineral revenue, for investigations of energy programs; and when relevant to civil, criminal or regulatory investigations or prosecutions, as well as routine regulatory responsibility.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of this information is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected for use in calculating royalty payments and in verification of compliance with lease terms. Response to this request is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

Supplemental and Amended Complaint

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**EXHIBIT 3**



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

BUREAU OF LAND MANAGEMENT  
DIVISION OF SOLID MINERALS

DEC 16 2003 Serial Number

ROLLA, MISSOURI 65401

PREFERENCE RIGHT LEASE RENEWAL

MNES 1352

PART I. LEASE RIGHTS GRANTED.

This ☐ Lease ☒ Lease Renewal entered into by and between the UNITED STATES OF AMERICA, through the Bureau of Land Management, hereinafter called lessor, and (Name and Address):

American Copper & Nickel Company

922 19th Street

Golden, Colorado 80401

JAN - 1 2004

hereinafter called lessee, is effective (date)

, for a period of 10 years,

Sodium, Sulphur, Hardrock -

☒ with preferential right in the lessee to renew for successive periods of 10 years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.

Potassium, Phosphate, Gilsomite -

☐ and for so long thereafter as lessee complies with the terms and conditions of this lease which are subject to readjustment at the end of each year period, unless otherwise provided by law.

Sec. 1. This lease is issued pursuant and subject to the terms and provisions of the:

☐ Mineral Leasing Act of 1920, as amended, and supplemented, 41 Stat. 437, 30 U.S.C. 181-287, hereinafter referred to as the Act;

☐ Mineral Leasing Act for Acquired Lands, Act of August 7, 1947, 61 Stat. 913, 30 U.S.C. 351-359;

☒ Reorganization Plan No. 3 of 1946, 60 Stat. 1099 and 43 U.S.C. 1201;

☐ (Other)

; and to the regulations and general mining orders of the Secretary of the Interior in force on the date this lease issued.

Sec. 2. Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to explore for, drill for, mine, extract, remove, beneficiate, concentrate, or otherwise process and dispose of the copper deposits nickel & associated minerals hereinafter referred to as "leased deposits," in, upon, or under the following described lands:

SEE ATTACHED

containing 2,610.07 acres, more or less, together with the right to construct such works, buildings, plants, structures, equipment and appliances and the right to use such on-lease rights-of-way which may be necessary and convenient in the exercise of the rights and privileges granted, subject to the conditions herein provided.

Phosphate -

☐ In accordance with Section 11 of the Act (30 U.S.C. 213), lessee may use deposits of silica, limestone, or other rock in the processing or refining of the phosphates, phosphate rock, and associated or related minerals mined from the leased lands or other lands upon payments of royalty as set forth on the attachment to this lease. (Phosphate leases only.)

In Lake County:

Township 61 North, Range 11 West of the Fourth Principal  
Meridian:

- Section 3, Lot 2  
SW-1/4 of SW-1/4  
S-1/2 of SE-1/4
- Section 5, Lots 1 and 2  
S-1/2 of NE-1/4  
Lot 6  
Lot 7  
NE-1/4 of SW-1/4  
S-1/2 of SW-1/4  
N-1/2 of SE-1/4
- Section 6, Lots 13, 22, 23 and 24
- Section 7, Lots 1, 2, 3, 4, 9, 10, 12, 15, 16 and 19
- Section 8, Lots 2 and 6
- Section 9, All except W-1/2 of NW-1/4
- Section 18, Lots 2, 7, 9, 12, 13, 14, 15, 16, 17, 18  
19 and 20
- Section 19, Lots 2, 3, 4, 5, 7 and 8

Township 62 North, Range 11 West of the Fourth Principal  
Meridian:

- Section 27, SE-1/4 of SW-1/4
- Section 32, Lot 4
- Section 33, Lots 6 and 7
- Section 34, NW-1/4

In St. Louis County:

Township 61 North, Range 12 West of the Fourth Principal  
Meridian:

- Section 25, Lot 2  
SW-1/4 of SW-1/4



## PART II. TERMS AND CONDITIONS

Sec. 1. (a) RENTAL RATE - Lessee shall pay lessor rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate indicated below:

*Sulphur, Gilsonite -*

☐ 50 cents for the first lease year and each succeeding lease year;

*Hardrock -*

☐ \$1 for the first lease year and \$1 for each succeeding lease year;

*Phosphate -*

☐ 25 cents for the first lease year, 50 cents for the second and third lease years, and \$1 for each and every lease year thereafter;

*Potassium, Sodium -*

☐ 25 cents for the first calendar year or fraction thereof, 50 cents for the second, third, fourth, and fifth calendar years respectively, and \$1 for the sixth and each succeeding calendar year; or

*Sodium Sulphur, Asphalt, and Hardrock Renewal Leases -*  
☒ \$ 1.00 for each lease year;

(b) RENTAL CREDITS - The rental for any year will be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

Sec. 2. (a) PRODUCTION ROYALTIES - Lessee shall pay lessor a production royalty in accordance with the attached schedule. Such production royalty is due the last day of the month next following the month in which the minerals are sold or removed from the leased lands.

\*(b) MINIMUM ANNUAL PRODUCTION AND MINIMUM ROYALTY - (1) Lessee shall produce on an annual basis a minimum amount of ~~copper, nickel~~ <sup>as soon mine</sup>, except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. Lessor may permit suspension of operations under the lease when marketing conditions are such that the lease cannot be operated except at a loss. (2) At the request of the lessee, made prior to initiation of the lease year, the authorized officer may allow in writing the payment of a \$3.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year. Minimum royalty payments shall be credited to production royalties for that year.

Sec. 3. REDUCTION AND SUSPENSION - In accordance with Section 39 of the Mineral Leasing Act, 30 U.S.C. 209, the lessor reserves the authority to waive, suspend or reduce rental or minimum royalty, or to reduce royalty, and reserves the authority to assent to or order the suspension of this lease.

Sec. 4. BONDS - Lessee shall maintain in the proper office a lease bond in the amount of \$ 5,000.00, or in lieu thereof, an acceptable statewide or nationwide bond. The authorized officer may require an increase in this amount when additional coverage is determined appropriate.

Sec. 5. DOCUMENTS, EVIDENCE AND INSPECTION - At such times and in such form as lessor may prescribe, lessee

shall furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.

Lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of lessor, the leased premises and all surface and underground improvements, work, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.

Lessee shall either submit or provide lessor access to and copying of documents reasonably necessary to verify lessee compliance with terms and conditions of the lease.

While this lease remains in effect, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Sec. 6. DAMAGES TO PROPERTY AND CONDUCT OF OPERATIONS - Lessee shall exercise reasonable diligence, skill, and care in the operation of the property, and carry on all operations in accordance with approved methods and practices as provided in the operating regulations, having due regard for the prevention of injury to life, health or property, and of waste or damage to any water or mineral deposits.

Lessee shall not conduct exploration or operations, other than casual use, prior to receipt of necessary permits or approval of plans of operations by lessor.

Lessee shall carry on all operations in accordance with approved methods and practices as provided in the operating regulations, and the approved mining plans in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, minerals, and other resources, and to other land uses or users. Lessee shall take measures deemed necessary by lessor to accomplish the intent of this lease term. Such measures may include, but are not limited to, modification to proposed siting or design of facilities, timing of operations, and specification of interim and final reclamation procedures.

Lessor reserves to itself the right to lease, sell, or otherwise dispose of the surface or other mineral deposits in the lands and the right to continue existing uses and to authorize future uses upon or in the leased lands, including issuing leases for mineral deposits not covered hereunder or the approval of easements or rights-of-way. Lessor shall condition such uses to prevent unnecessary or unreasonable interference with rights of lessee as may be consistent with concepts of multiple use and multiple mineral development.

Sec. 7. PROTECTION OF DIVERSE INTERESTS, AND EQUAL OPPORTUNITY - Lessee shall: pay when due all taxes legally assessed and levied under the laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States; maintain a safe working environment in accordance with standard industry practices; restrict the workday to not more than 8 hours in any one day for underground workers, except in emergencies; and take measures necessary to protect the health and safety of the public. No person under the age of 16 years shall be employed in any mine below the surface. To the extent that laws of the State in which the lands are



situated are more restrictive than the provisions in this paragraph, then the State laws apply.

Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec. 8. (a) TRANSFERS - This lease may be transferred in whole or in part to any person, association or corporation qualified to hold such lease interest.

(b) RELINQUISHMENT - The lessee may relinquish in writing at any time all rights under this lease or any portion thereof as provided in the regulations. Upon lessor's acceptance of the relinquishment, lessee shall be relieved of all future obligations under the lease or the relinquished portion thereof, whichever is applicable.

Sec. 9. DELIVERY OF PREMISES, REMOVAL OF MACHINERY, EQUIPMENT, ETC. - At such time as all or portions of this lease are returned to lessor, lessee shall deliver up to lessor the land leased, underground timbering, and such other supports and structures necessary for the preservation of the mine workings on the leased premises or deposits and place all wells in condition for suspension or abandonment. Within 180 days thereof, lessee shall remove from the premises all other structures, machinery, equipment, tools, and materials that it elects to or as required by the authorized officer. Any such structures, machinery, equipment, tools, and materials remaining on the leased lands beyond 180 days, or approved extension thereof, shall become the property of the lessor, but lessee shall either remove any or all such property or shall continue to be liable for the cost of removal and disposal in the amount actually incurred by the lessor. If the surface is owned by third parties, lessor shall waive the requirement for removal, provided the third parties do not object to such

waiver. Lessee shall, prior to the termination of bond liability or at any other time when required and in accordance with all applicable laws and regulations, reclaim all lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities on the leased lands, and reclaim access roads or trails.

Sec. 10. PROCEEDINGS IN CASE OF DEFAULT - If lessee fails to comply with applicable laws, now existing regulations, or the terms, conditions and stipulations of this lease, and the noncompliance continues for 30 days after written notice thereof, this lease shall be subject to cancellation by the lessor only by judicial proceedings. This provision shall not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver shall not prevent later cancellation for the same default occurring at any other time.

Sec. 11. HEIRS AND SUCCESSORS-IN-INTEREST - Each obligation of this lease shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. INDEMNIFICATION - Lessee shall indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under this lease.

Sec. 13. SPECIAL STATUTES - This lease is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151-1175), the Clean Air Act (42 U.S.C. 1857 et. seq.), and to all other applicable laws pertaining to exploration activities, mining operations and reclamation.

#### Sec. 14. SPECIAL STIPULATIONS -

\* The terms and conditions of the production royalties remains as stated in the attached original lease agreement.

\*\* The minimum annual production and minimum royalty is \$10.00 per acre or a fraction thereof as stated in the attached original lease agreement.



Sec. 14. SPECIAL STIPULATIONS - (Cont.)

THE UNITED STATES OF AMERICA

AMERICAN COPPER & NICKEL COMPANY INC  
Company or Lessee Name

DJ Rusel  
(Signature of Lessee)

PRESIDENT  
(Title)

NOVEMBER 26, 2003  
(Date)

By

Sharon Brown  
(Signing Officer)

Authorized Officer  
(Title)

DEC 05 2003  
(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

NOTICE

The Privacy Act of 1974 and the regulations in 43 CFR 2.48(d) provides that you be furnished the following information in connection with information required under the terms of this lease.

AUTHORITY: 30 U.S.C. 181 et seq.; 43 CFR 3500.

PRINCIPAL PURPOSE: The information will be used to verify your compliance with the lease terms and in calculating royalty payments.

ROUTINE USES: (1) Evaluation of the effects of the operations on the environment. (2) Statistical reports to Congress. (3)(4) and (5) Information from the record and/or the record may be released or transferred to appropriate Federal, State or local agencies in allocating mineral revenue, for investigations of energy programs; and when relevant to civil, criminal or regulatory investigations or prosecutions, as well as routine regulatory responsibility.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of this information is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected for use in calculating royalty payments, and in verification of compliance with lease terms. Response to this request is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

Serial Number

PREFERENCE RIGHT LEASE RENEWAL

MNES 1353

## PART I. LEASE RIGHTS GRANTED.

This ☐ Lease ☒ Lease Renewal entered into by and between the UNITED STATES OF AMERICA, through the Bureau of Land Management, hereinafter called lessor, and (Name and Address)

i. American Copper & Nickel Company  
922 19th Street

Golden, Colorado 80401  
hereinafter called lessee, is effective (date)

JAN - 1 2004

, for a period of 10 years,

Sodium, Sulphur, Hardrock -

☒ with preferential right in the lessee to renew for successive periods of 10 years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.

Potassium, Phosphate, Gilsonite -

☐ and for so long thereafter as lessee complies with the terms and conditions of this lease which are subject to readjustment at the end of each year period, unless otherwise provided by law.

Sec. 1. This lease is issued pursuant and subject to the terms and provisions of the:

☐ Mineral Leasing Act of 1920, as amended, and supplemented, 41 Stat. 437, 30 U.S.C. 181-287, hereinafter referred to as the Act;

☐ Mineral Leasing Act for Acquired Lands, Act of August 7, 1947, 61 Stat. 913, 30 U.S.C. 351-359;

☒ Reorganization Plan No. 3 of 1946, 60 Stat. 1099 and 43 U.S.C. 1201;

☐ (Other)

to the regulations and general mining orders of the Secretary of the Interior in force on the date this lease issued.

; and

Sec. 2. Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to explore for, drill for, mine, extract, remove, beneficiate, concentrate, or otherwise process and dispose of the copper deposits nickel & associated minerals hereinafter referred to as "leased deposits," in, upon, or under the following described lands:

SEE ATTACHED

containing 2,254.71 acres, more or less, together with the right to construct such works, buildings, plants, structures, equipment and appliances and the right to use such on-lease rights-of-way which may be necessary and convenient the exercise of the rights and privileges granted, subject to the conditions herein provided.

At date -

☐ In accordance with Section 11 of the Act (30 U.S.C. 213), lessee may use deposits of silica, limestone, or other rock in the processing or refining of the phosphates, phosphate rock, and associated or related minerals mined from the leased lands or other lands upon payments of royalty as set forth on the attachment to this lease. (Phosphate leases only.)

In Lake County:

Township 62 North, Range 10 West of the Fourth Principal  
Meridian:

Section 19, All

Section 20, SW-1/4

Section 29, N-1/2

Section 30, N-1/2

Lot 3 (NW-1/4 of SW-1/4)

Township 62 North, Range 11 West of the Fourth Principal  
Meridian:

Section 24, Lot 7

SE-1/4 of SW-1/4

S-1/2 of SE-1/4

Section 25, N-1/2

W-1/2 of SW-1/4 [undivided one-half interest

NE-1/4 of SE-1/4

Section 26, S-1/2 of NE-1/4

NE-1/4 of SW-1/4

E-1/2 of SE-1/4 [undivided one-half interest



## PART II. TERMS AND CONDITIONS

1. (a) RENTAL RATE - Lessee shall pay lessor rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate indicated below:

*Sulphur, Gilsonite -*

☐ 50 cents for the first lease year and each succeeding lease year;

*Hardrock -*

☐ \$1 for the first lease year and \$1 for each succeeding lease year;

*Phosphate -*

☐ 25 cents for the first lease year, 50 cents for the second and third lease years, and \$1 for each and every lease year thereafter;

*Potassium, Sodium -*

☐ 25 cents for the first calendar year or fraction thereof, 50 cents for the second, third, fourth, and fifth calendar years respectively, and \$1 for the sixth and each succeeding calendar year; or

*Sodium, Sulphur, Asphalt, and Hardrock Renewal Leases -*

☒ \$ 1.00 for each lease year;

(b) RENTAL CREDITS - The rental for any year will be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

Sec. 2. (a) PRODUCTION ROYALTIES - Lessee shall lessor a production royalty in accordance with the attached schedule. Such production royalty is due the last day of the month next following the month in which the minerals are sold or removed from the leased lands.

\* (b) MINIMUM ANNUAL PRODUCTION AND MINIMUM ROYALTY - (1) Lessee shall produce on an annual basis a minimum amount of copper, nickel, & assoc. mins., except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. Lessor may permit suspension of operations under the lease when marketing conditions are such that the lease cannot be operated except at a loss. (2) At the request of the lessee, made prior to initiation of the lease year, the authorized officer may allow in writing the payment of a \$3.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year. Minimum royalty payments shall be credited to production royalties for that year.

Sec. 3. REDUCTION AND SUSPENSION - In accordance with Section 39 of the Mineral Leasing Act, 30 U.S.C. 209, the lessor reserves the authority to waive, suspend or reduce rental or minimum royalty, or to reduce royalty, and reserves the authority to assent to or order the suspension of this lease.

Sec. 4. BONDS - Lessee shall maintain in the proper office a lease bond in the amount of \$ 5,000, or in lieu thereof, an acceptable statewide or nationwide bond. The authorized officer may require an increase in this amount when additional coverage is determined appropriate.

Sec. 5. DOCUMENTS, EVIDENCE AND INSPECTION - At such times and in such form as lessor may prescribe, lessee

shall furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.

Lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of lessor, the leased premises and all surface and underground improvements, work, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.

Lessee shall either submit or provide lessor access to and copying of documents reasonably necessary to verify lessee compliance with terms and conditions of the lease.

While this lease remains in effect, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Sec. 6. DAMAGES TO PROPERTY AND CONDUCT OF OPERATIONS - Lessee shall exercise reasonable diligence, skill, and care in the operation of the property, and carry on all operations in accordance with approved methods and practices as provided in the operating regulations, having due regard for the prevention of injury to life, health or property, and of waste or damage to any water or mineral deposits.

Lessee shall not conduct exploration or operations, other than casual use, prior to receipt of necessary permits or approval of plans of operations by lessor.

Lessee shall carry on all operations in accordance with approved methods and practices as provided in the operating regulations, and the approved mining plans in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, minerals, and other resources, and to other land uses or users. Lessee shall take measures deemed necessary by lessor to accomplish the intent of this lease term. Such measures may include, but are not limited to, modification to proposed siting or design of facilities, timing of operations, and specification of interim and final reclamation procedures.

Lessor reserves to itself the right to lease, sell, or otherwise dispose of the surface or other mineral deposits in the lands and the right to continue existing uses and to authorize future uses upon or in the leased lands, including issuing leases for mineral deposits not covered hereunder or the approval of easements or rights-of-way. Lessor shall condition such uses to prevent unnecessary or unreasonable interference with rights of lessee as may be consistent with concepts of multiple use and multiple mineral development.

Sec. 7. PROTECTION OF DIVERSE INTERESTS, AND EQUAL OPPORTUNITY - Lessee shall: pay when due all taxes legally assessed and levied under the laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States; maintain a safe working environment in accordance with standard industry practices; restrict the workday to not more than 8 hours in any one day for underground workers, except in emergencies; and take measures necessary to protect the health and safety of the public. No person under the age of 16 years shall be employed in any mine below the surface. To the extent that laws of the State in which the lands are



situated are more restrictive than the provisions in this paragraph, then the State laws apply.

Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec. 8. (a) TRANSFERS - This lease may be transferred in whole or in part to any person, association or corporation qualified to hold such lease interest.

(b) RELINQUISHMENT - The lessee may relinquish in writing at any time all rights under this lease or any portion thereof as provided in the regulations. Upon lessor's acceptance of the relinquishment, lessee shall be relieved of all future obligations under the lease or the relinquished portion thereof, whichever is applicable.

Sec. 9. DELIVERY OF PREMISES, REMOVAL OF MACHINERY, EQUIPMENT, ETC. - At such time as all or portions of this lease are returned to lessor, lessee shall deliver up to lessor the land leased, underground timbering, and such other supports and structures necessary for the preservation of the mine workings on the leased premises or deposits and place all wells in condition for suspension or abandonment. Within 180 days thereof, lessee shall remove from the premises all other structures, machinery, equipment, tools, and materials that it elects to or as required by the authorized officer. Any such structures, machinery, equipment, tools, and materials remaining on the leased lands beyond 180 days, or approved extension thereof, shall become the property of the lessor, but lessee shall either remove any or all such property or shall continue to be liable for the cost of removal and disposal in the amount actually incurred by the lessor. If the surface is owned by third parties, lessor shall waive the requirement for removal, provided the third parties do not object to such

Sec. 14. SPECIAL STIPULATIONS -

\* The terms and conditions of the production royalties remains as stated in the attached original lease agreement.

\*\* The minimum annual production and minimum royalty is \$10.00 per acre or a fraction thereof as stated in the attached original lease agreement.

waiver. Lessee shall, prior to the termination of bond liability or at any other time when required and in accordance with all applicable laws and regulations, reclaim lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities on the leased lands, and reclaim access roads or trails.

Sec. 10. PROCEEDINGS IN CASE OF DEFAULT - If lessee fails to comply with applicable laws, now existing regulations, or the terms, conditions and stipulations of this lease, and the noncompliance continues for 30 days after written notice thereof, this lease shall be subject to cancellation by the lessor only by judicial proceedings. This provision shall not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver shall not prevent later cancellation for the same default occurring at any other time.

Sec. 11. HEIRS AND SUCCESSORS-IN-INTEREST - Each obligation of this lease shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. INDEMNIFICATION - Lessee shall indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under this lease.

Sec. 13. SPECIAL STATUTES - This lease is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151-1175), the Clean Air Act (42 U.S.C. 1857 et. seq.), and to all other applicable laws pertaining to exploration activities, mining operations and reclamation.

## Sec. 14. SPECIAL STIPULATIONS - (Cont.)

THE UNITED STATES OF AMERICA

AMERICAN COPPER & NICKEL COMPANY INC  
Company or Lessee NameD J Rusch  
(Signature of Lessee)PRESIDENT  
(Title)NOVEMBER 26, 2003  
(Date)

By

Dorin Blom  
(Signing Officer)Authorized Officer  
(Title)DEC 05 2003  
(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

## NOTICE

The Privacy Act of 1974 and the regulations in 43 CFR 2.48(d) provides that you be furnished the following information in connection with information required under the terms of this lease.

AUTHORITY: 30 U.S.C. 181 et seq.; 43 CFR 3500.

PRINCIPAL PURPOSE: The information will be used to verify your compliance with the lease terms and in calculating royalty payments.

ROUTINE USES: (1) Evaluation of the effects of the operations on the environment. (2) Statistical reports to Congress. (3)(4) and (5) Information from the record and/or the record may be used or transferred to appropriate Federal, State or local agencies in allocating mineral revenue, for investigations of geology programs; and when relevant to civil, criminal or regulatory investigations or prosecutions, as well as routine regulatory responsibility.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of this information is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected for use in calculating royalty payments and in verification of compliance with lease terms. Response to this request is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

(b) (5)



**Created by:**[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)

Total Messages in label:97 (20 conversations)

Created: 08-07-2018 at 11:53 AM



# Conversation Contents

## M-Op draft

### Attachments:

/12. M-Op draft/1.1 2017.11.17 draft M-Op reversal rework\_clean.docx

/12. M-Op draft/1.2 2017.11.17 draft M-Op reversal rework.docx

**"Collier, Briana" <briana.collier@sol.doi.gov>**

---

**From:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**Sent:** Fri Nov 17 2017 19:50:42 GMT-0700 (MST)  
**To:** Briana Collier <briana.collier@sol.doi.gov>  
**Subject:** M-Op draft  
**Attachments:** 2017.11.17 draft M-Op reversal rework\_clean.docx 2017.11.17 draft M-Op reversal rework.docx

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

Phone: (202) 208-4853

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M-

Memorandum

To: Director, Bureau of Land Management

From: Solicitor

Subject: Reversal of M-37036, "Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-01353)"

(b) (5)



(b) (5)

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[Redacted text line]

[Redacted text block]

[Redacted text block]

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[Redacted text block]

Commented [CBW2]: (b) (5)

[Redacted text line]

[Redacted text block]

(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Commented [MR3]: (b) (5)

Commented [CBW4]: (b) (5)

(b) (5)

[Redacted]

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[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

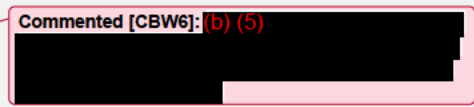
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[Redacted]

(b) (5)



Commented [CBW6]: (b) (5)



(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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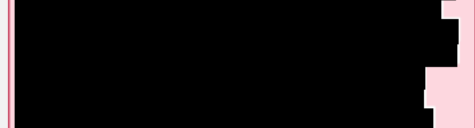
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M-

Memorandum

To: Director, Bureau of Land Management

From: Solicitor

Subject: Reversal of M-37036, "Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-01353)"

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year primary term, which would be in line with its regulations and not unfair or precedent-setting

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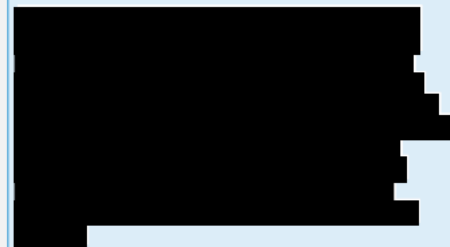


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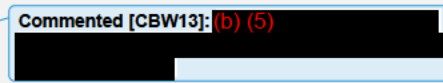
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**Created by:**[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)

Total Messages in label:97 (20 conversations)

Created: 08-07-2018 at 11:55 AM

# Conversation Contents

## Twin Metals leases

### Attachments:

/13. Twin Metals leases/1.1 MNES-01352 1966 Lease.pdf  
/13. Twin Metals leases/1.2 MNES\_01353 1966 Lease.pdf  
/13. Twin Metals leases/1.3 1989 TMM Lease Renewals.pdf  
/13. Twin Metals leases/1.4 2004 TMM Lease Renewals.pdf

**"Collier, Briana" <briana.collier@sol.doi.gov>**

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**From:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**Sent:** Tue Nov 07 2017 13:40:37 GMT-0700 (MST)  
**To:** Gary Lawkowski <gary.lawkowski@sol.doi.gov>  
**Subject:** Twin Metals leases  
**Attachments:** MNES-01352 1966 Lease.pdf MNES\_01353 1966 Lease.pdf 1989 TMM Lease Renewals.pdf 2004 TMM Lease Renewals.pdf

Hi Gary, Here are the leases. Please let me know if you would like copies of the historical documents or the regulations cited in the opinion. Thanks, Briana

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

Phone: (202) 208-4853

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**"Lawkowski, Gary" <gary.lawkowski@sol.doi.gov>**

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**From:** "Lawkowski, Gary" <gary.lawkowski@sol.doi.gov>  
**Sent:** Tue Nov 07 2017 13:42:42 GMT-0700 (MST)  
**To:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**Subject:** Re: Twin Metals leases

Thanks!

On Tue, Nov 7, 2017 at 3:40 PM, Collier, Briana <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)> wrote:  
| Hi Gary, Here are the leases. Please let me know if you would like copies of the historical

documents or the regulations cited in the opinion. Thanks, Briana

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

Phone: (202) 208-4853

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*Gary Lawkowski*  
*Counselor to the Solicitor*  
*Department of the Interior*  
[Gary.Lawkowski@sol.doi.gov](mailto:Gary.Lawkowski@sol.doi.gov)  
202-208-7340



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

MINERAL LEASE

This lease entered into on the 1st day of June, 1966 between the United States of America, as Lessor, through the Bureau of Land Management, and The International Nickel Company, Inc., a Delaware corporation with offices at 67 Wall Street, New York, New York, as Lessee, pursuant to the authority set out in, and subject to, Section 402 of the President's Reorganization Plan No. 3 of 1946, 60 Stat. 1099, and the Act of June 30, 1950, 64 Stat. 311, and to all regulations of the Secretary of the Interior now in force when not inconsistent with any of the provisions herein.

WITNESSETH:

Sec. 1. (a) Rights of Lessee. In consideration of the rents and royalties to be paid and conditions and covenants to be observed as herein set forth the Lessor grants to the Lessee, subject to all privileges and uses heretofore duly authorized and prior valid claims, the exclusive right to mine, remove, and dispose of all the copper and/or nickel minerals and associated minerals and, with the exception of oil, gas, oil shale, coal, phosphate, potassium, sodium, or sulphur, any other minerals in, upon, or under the following described lands in the United States, in the State of Minnesota:

In Lake County:

Township 61 North, Range 11 West of the Fourth Principal Meridian:

Section 3, Lot 2  
SW-1/4 of SW-1/4  
S-1/2 of SE-1/4  
Section 5, Lots 1 and 2  
S-1/2 of NE-1/4  
Lot 6  
Lot 7  
NE-1/4 of SW-1/4  
S-1/2 of SW-1/4  
N-1/2 of SE-1/4

Section 6, Lots 13, 22, 23 and 24  
Section 7, Lots 1, 2, 3, 4, 9, 10, 12, 15, 16 and 19  
Section 8, Lots 2 and 6  
Section 9, All except W-1/2 of NW-1/4  
Section 18, Lots 2, 7, 9, 12, 13, 14, 15, 16, 17, 18  
19 and 20

Section 19, Lots 2, 3, 4, 5, 7 and 8

Township 62 North, Range 11 West of the Fourth Principal Meridian:

Section 27, SE-1/4 of SW-1/4  
Section 32, Lot 4  
Section 33, Lots 6 and 7  
Section 34, NW-1/4

In St. Louis County:

Township 61 North, Range 12 West of the Fourth Principal Meridian:

Section 25, Lot 2  
SW-1/4 of SW-1/4

containing ~~2,569.87~~ acres, more or less, together with the right

2,610.07

SEE DECISION 9-1-66

to construct and maintain thereon such structures and other facilities as may be necessary or convenient for the mining, preparation, and removal of said minerals, for a period of twenty (20) years with a right in the Lessee to renew the same for successive periods of ten (10) years each in accordance with regulation 43 CFR § 3221.4(f) and the provisions of this lease.

(b) Authorized Agency Representative. The United States agency having administrative control over the surface use of the land is the Department of Agriculture and its authorized agency representative, hereinafter called the "Authorized Officer," to whom inquiries should be addressed is the Supervisor, Superior National Forest at Duluth, Minnesota.

Sec. 2. In consideration of the foregoing, the Lessee agrees:

(a) Rentals. To pay to the Lessor annually in advance, beginning with the date of this lease, rental of one dollar (\$1.00) for each acre or fraction thereof for each lease year until production commences, the rental payment for the year in which production commences to be credited on royalties that accrue during that lease year.

(b) Royalty. To pay the Lessor within 30 days after the end of each period prescribed in subsection (e) of this section a royalty (i) at the rate of 4% during the first ten years of the primary term and (ii) at the rate of 4-1/2% during the second 10 years of the primary term, of the gross value of the minerals mined hereunder which are shipped to the concentrating mill during each such period. Said value for the purposes of this Agreement shall be taken to be one-third of the market prices of a quantity of fully-refined copper and of a quantity of fully-refined nickel equal to the respective quantities of unrefined copper and unrefined nickel contained in said minerals so shipped to the concentrating mill.

(c) Minimum royalty. Beginning after the tenth year of the lease, except with respect to any periods during which operations are interrupted by strikes, the elements or casualties not attributable to the Lessee, to mine each year from the area covered by the lease a quantity of the leased minerals such that the royalties payable for said year under subsections (b) and (d) hereof will during the primary term of the lease be at least equal to \$5 per annum per acre included in the leased premises at the beginning of such year, and during each renewal period of the lease be at least equal to \$10 per annum per acre included in the leased premises at the beginning of such year; or in lieu thereof to pay the Lessor as royalty within 30 days after the end of such year that amount which, when added to the royalties, if any, payable for said year under subsections (b) and (d) hereof, will equal the minimum royalty for that year herein provided. Lessor may in its discretion, waive, reduce, or suspend the minimum royalty payment for reasonable periods of time in the interest of conservation or when such action does not adversely affect the interest of the United States of America in accordance with the regulation 43 CFR § 3222.6-2.

(d) Additional royalty. (1) In order to provide a royalty in respect of any associated products (as hereinafter defined), to pay the Lessor within 30 days after the end of each period prescribed in subsection (e) of this section an additional royalty of 0.3% of the gross value of the minerals mined under this lease (determined on the basis of their copper and nickel content as provided in subsection (b) of this section) which are shipped to the concentrating mill during such

period. During the first ten years of the lease such additional royalty shall not be payable if the Lessee demonstrates that no associated products are being recovered from the minerals mined under this lease, but beginning after the tenth year of the lease, such additional royalty shall be payable whether or not associated products are recovered from the minerals mined under this lease.

(2) The Lessee will also pay the Lessor within 90 days after the end of each lease year a further additional royalty of 1% of the amount, if any, by which the gross value of associated products exceeds 20% of the aggregate market price as fully-refined metals of the quantity of copper and nickel contained in the minerals mined under this lease which are shipped to the concentrating mill during such lease year. At the request of either party following any lease year for which said 1% royalty has been payable and the gross value of associated products exceeds 30% of the said aggregate market price, representatives of the Lessor and the Lessee shall meet at a mutually agreeable time to consider and decide whether additional royalty for associated products shall continue to be payable as provided in this subsection (d), or shall (in lieu thereof) be payable on such basis as may be negotiated. In connection with such meeting the Lessee will make a reasonable investigation to ascertain insofar as practicable the volume of associated products which appear to be currently recovered from the minerals mined under this lease, and will provide the Lessor with the results of this investigation.

(3) For purposes of this agreement, the term "associated products" shall mean (i) fully-refined chemical elements (other than copper and nickel) not further processed and (ii) end products containing such elements produced by the Lessee (prior to full refining) for their value as such (other than products valuable chiefly by reason of their copper and/or nickel content), which are, in either case, recovered by the Lessee from minerals mined under this lease and sold or used by the Lessee during the lease year for which additional royalty, if any, is due; and the gross value of such products shall be taken to be the aggregate of the market prices of the respective quantities of associated products so sold or used by the Lessee.

(e) Statement. To furnish for each month or such longer period as may be prescribed by the Regional Mining Supervisor of the Geological Survey, statements in detail in such form as may be prescribed by him, of the amount and value under subsection (b) of this section of the minerals mined hereunder which are shipped to the concentrating mill during such period, for use in determining royalties, such statements to be furnished within 30 days from the close of such period. Falsification of such statements shall be grounds for cancellation of the lease.

(f) Market prices. For the purposes of this section the "market price of fully-refined copper" per pound shall be the average of the monthly average prices per pound for Domestic Refinery Electrolytic Copper in carload lots, f.o.b. Atlantic Seaboard refineries, published in E. & M. J. Metal and Mineral Markets for the period for which the royalty is being computed, and the "market price of fully-refined nickel" per pound shall be the average of the monthly average prices per pound for nickel (i.e., electrolytic nickel cathodes) in carload lots, f.o.b. Port Colborne, Ontario, Canada, United States import duty (if any) included, published in E. & M. J. Metal and Mineral Markets for the period for which royalty is being computed; and the respective "market prices of associated products" per unit

shall be the average of the monthly average prices per unit for such respective products in their usual and customary shipping quantities, f.o.b. their usual and customary place of disposal, published in E. & M. J. Metal and Mineral Markets for the period for which additional royalty, if any, is being computed.

(g) Bond. To furnish and maintain a bond in the sum of \$ 10,000.00 conditioned upon compliance with the terms and conditions of this lease, and to increase the amount thereof or furnish such other bond as may be required.

(h) Inspection. To permit at all reasonable times: (1) inspection by any authorized officer of the leased premises and all surface and underground improvements, works, machinery, equipment, and all books and records pertaining to operations and surveys or investigations under this lease; and (2) the Lessor to make copies of and extracts from any or all books and records pertaining to operations under this lease.

(i) Maps--Reports. To furnish, in duplicate, to the Regional Mining Supervisor, at such times as he may require, a plat in the manner and form prescribed by him showing prospecting and development work and improvements on the leased land and other related information, with a report as to all buildings, structures, and other works or equipment, situated elsewhere and owned or operated in conjunction with, or as a part of the operations conducted hereunder.

(j) To comply with all regulations of the Secretary of the Interior and the Secretary of Agriculture applicable to the leased premises which are under his jurisdiction; and to conduct operations in an orderly manner and in accordance with regulations in 30 CFR, Part 2250, and the applicable Federal and State laws; and to exercise reasonable diligence, skill, and care in the operation of the property; and to carry on all operations in accordance with approved methods and practices, having due regard for the prevention of damage to mineral deposits, water horizons and property, injury to life and health, and economic waste.

*7-11-46  
for memo to  
Regional Mining  
Supervisor  
J. H. (1226)  
J. H. 7-11-46*

(k) Taxes. To pay when due all taxes lawfully assessed and levied under the laws of the State or the United States upon improvements, output of mines, and other rights, property, and assets of the Lessee.

(l) Deliver Premises. To deliver up to the Lessor in good order and condition and subject to the provisions of Section 9 hereof on the termination of this lease as a result of forfeiture thereof the lands covered thereby, including all underground timbering and such other supports and structures as are necessary for the preservation of the mine.

(m) Assignment. Not to assign this lease, or any interest therein, whether by direct assignment, operating agreement, working or royalty interest, or otherwise, nor sublet any portion of the leased premises, except with the approval in writing of the Lessor. All such assignments or subleases must be submitted in triplicate within 90 days from the date of execution and must contain all of the terms and conditions agreed upon by the parties thereto. Not to create overriding royalties in excess of those authorized by regulation 43 CFR § 3226.1.

An assignment of all or part of the record title to a portion of the acreage in the lease shall separate the lease into separate leaseholds and the terms hereof shall apply

separately to the segregated portions. Advance annual rental payments, if previously terminated, shall be resumed as to an undeveloped segregated portion on the next anniversary date of the lease; the minimum royalty payment herein specified shall apply separately to the segregated portions and the time allowed within which to commence operations on an undeveloped segregated portion shall be such reasonable period as shall be prescribed by the Lessor at the time the assignment is approved.

(n) Nondiscrimination Clauses. In connection with the performance of work under this contract, the Lessee agrees as follows:

(1) The Lessee will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Lessee will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Lessee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the authorized contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The Lessee will, in all solicitations or advertisements for employees placed by or on behalf of the Lessee state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

(3) The Lessee will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the said labor union or workers' representative of the Lessee's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Lessee will comply with all provisions of Executive Order No. 10925 of March 6, 1961, as amended, and of the rules, regulations, and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.

(5) The Lessee will furnish all information and reports required by Executive Order No. 10925 of March 6, 1961, as amended, and by the rules, regulations, and orders of the said Committee, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Committee for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Lessee's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the Lessee may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 10925 of March 6, 1961, as amended, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order or by rule, regulation, or order of the President's Committee on Equal Employment Opportunity, or as

otherwise provided by law.

(7) The Lessee will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the President's Committee on Equal Employment Opportunity issued pursuant to section 303 of Executive Order No. 10925 of March 6, 1961, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Lessee will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the Lessee becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Lessee may request the United States to enter into such litigation to protect the interests of the United States.

(o) Payments. Rentals under this lease shall be paid to the Manager of the proper Land Office, except that when this lease becomes productive the rentals and royalties shall be paid to the Regional Mining Supervisor of the United States Geological Survey, with whom all reports concerning operations under the lease shall be filed. All remittances to the Bureau of Land Management shall be made payable to the Bureau of Land Management, those to the Geological Survey shall be made payable to the United States Geological Survey.

Sec. 3. Lessee further agrees:

(a) Protection of Property. To conduct all operations hereunder with due regard for good land management, not to cut or destroy timber without previous permission from the Authorized Officer and to pay for such timber at rates prescribed by him; to avoid damage to improvements, timber, crops, or other cover; unless otherwise authorized by the Authorized Officer, not drill any well, carry on operations, make excavations, construct tunnels, drill, or otherwise disturb the surface of the lands within 200 feet of any building thereon and whenever required in writing by the Authorized Officer, and upon any partial or total relinquishment, cancellation or termination of this lease as to that portion of the land to which his rights have terminated, to fence or fill all sump holes, ditches and other excavations, remove or cover all debris, and so far as reasonably possible, reseed or otherwise restore the surface of the lands to their former condition, or to a productive or other condition satisfactory to the Authorized Officer, including the removal of structures as and if required, and when required by such Officer to bury all pipelines below plow depth.

(b) Fire precautions. To do all in his power to prevent and suppress fires on the land and vicinity, and to require his employees, contractors, and subcontractors to do likewise. Unless prevented by circumstances over which he has no control, to place his employees, contractors, and subcontractors at the disposal of the Authorized Officer for the purpose of fighting fires on or originating on the land or on adjacent areas or caused by the negligence of the Lessee or his employees, contractors, and subcontractors, with the understanding that payment for such services shall be made at rates to be determined by such Authorized Officer but not less than the current rates of pay prevailing in the vicinity for services of a similar character: Provided, that if the

Lessee, his employees, contractors, or subcontractors, or employees of any of them, caused or could have prevented the origin or spread of said fire or fires, no payment shall be made for services so rendered. During periods of serious fire danger, as may be specified by the Authorized Officer, the Lessee shall prohibit smoking and the building of camp and lunch fires by his employees, contractors, and subcontractors, within the leased area except at established camps, and shall enforce this prohibition by all means within his power: Provided, that the Authorized Officer may designate safe places where, after all inflammable material has been cleared away, campfires may be built for the purpose of heating lunches and where, at the option of the Lessee, smoking may be permitted. The Lessee will not burn rubbish, trash, or other inflammable materials except with the consent of the Authorized Officer. The Lessee shall build or construct such fire lines or do such clearing on the land as the Authorized Officer decides is essential for forest, brush, and grass fire prevention which is or may be necessitated by the exercise of the privileges authorized by this lease, and shall maintain such fire tools at his headquarters or at the appropriate location on the land as are deemed necessary by such Officer.

(c) Approval of Construction. Not to clear or use the land for development or for construction purposes of any kind until a plan of construction and development therefor has been approved by the Authorized Officer and that in the location, design, construction and maintenance of all authorized works, camps, buildings, plants, waterways, roads, telegraph or telephone lines, pipelines, reservoirs, tanks, pumping stations, or other structures or clearance, Lessee shall do all things reasonably necessary to prevent or reduce scarring and erosion of the land, pollution of the water resources and any damage to the watershed.

(d) Damage to Property. To pay the Lessor or its tenant, as the case may be, for any and all damage to or destruction of property caused by the Lessee's operations hereunder; to save and hold the Lessor or the surface owner or their tenants harmless from all damage or claims for damage to persons or property resulting from the Lessee's operations under this lease; and where the surface of the leased land is owned by other than the Lessor, to pay such owner, or his tenant, as the case may be, for damage or injury to livestock, crops, trees, pipelines, buildings, and other improvements of the leased lands. That where construction, operation, or maintenance of any of the facilities on or connected with this lease causes damage to the watershed or pollution of the water resources, to repair such damage and to take such corrective measures as are required by the Authorized Officer, including the reseedling or other restoration of the vegetative cover.

(e) Protection of Livestock; Access to Leased Lands. To install and maintain cattle guards to prevent the passage of livestock in any openings made in fences by the Lessee or his contractors to provide access to the lands covered by this lease for automotive and other equipment.

(f) Authorized Officer. All inquiries relating to this section should be addressed to the Authorized Officer named in Section 1(b) of this lease.

Sec. 4. Lessee--Agent. Prior to the beginning of operations the Lessee shall appoint and maintain at all times during the term of this lease a local agent upon whom may be served written orders or notices respecting matters contained in this lease, and shall inform the Authorized Officer and the Regional

Mining Supervisor of the Geological Survey, in writing, of the name and address of such agent. If a substitute agent is appointed, the Lessee shall immediately so inform the said Officers.

Sec. 5. Renewal Terms. The Lessor shall have the right to reasonably readjust and fix royalties payable hereunder at the end of the primary term of this lease and thereafter at the end of each successive renewal thereof unless otherwise provided by law at the time of the expiration of any such period, and to readjust other terms and conditions of the lease, including the revision of or imposition of stipulations for the protection of the surface of the land as may be required by the agency having jurisdiction thereof; provided, however, that the Lessee shall have the right to three successive ten-year renewals of this lease with any readjustment in the royalties payable hereunder limited to that hereinafter provided and with no readjustment of any of the other terms and conditions of this lease unless at the end of the primary term of this lease the Lessee shall not have begun production, either hereunder or under the companion lease granted to the Lessee this day. The Secretary of the Interior may grant extensions of time for commencement of production in the interest of conservation or upon a satisfactory showing by the Lessee that the lease cannot be successfully operated at a profit or for other reasons, and the Lessee shall be entitled to renewal as herein provided without readjustment except of royalties payable hereunder if at the end of the primary or renewal period such an extension shall be in effect, but the Lessee shall not be entitled to subsequent such renewals unless it shall have begun production within the extended time. If the Lessee shall be entitled to renewal without readjustment except of royalties payable hereunder, the Secretary of the Interior may in his discretion increase the royalty rate prescribed in subsection (b) of Section 2 up to, but not exceeding (i) 5% during the first ten-year renewal period, (ii) 6% during the second ten-year renewal period, and (iii) 7% during the third ten-year renewal period. The extent of readjustment of royalty, if any, to be made under this section shall be determined prior to the commencement of the renewal period.

Sec. 6. The Lessor expressly reserves:

(a) Rights Reserved. The right to permit for joint or several use easements or rights-of-way, including easements in tunnels upon, through, or in the land leased, occupied, or used as may be necessary or appropriate to the working of the same or other lands, and the preparation and shipment of the products thereof by or under authority of the Government, its Lessees or Permittees, and for other public purposes.

(b) Waiver of Conditions. The right to waive any breach of the covenants and conditions contained herein, but any such waiver shall extend only to the particular breach so waived and shall not limit the rights of the Lessor with respect to any future breach; nor shall the waiver of a particular cause of forfeiture prevent cancellation of this lease for any other cause, or for the same cause occurring at another time.

Sec. 7. It is mutually agreed:

(a) Mining Methods. That this lease does not authorize the mining or removal of the mineral deposits by stripping, rim cutting, or open pit methods without the prior written



approval of the Authorized Officer and on such conditions as he may prescribe.

(b) Reduction or Smelting of Ores. That the reduction or smelting of ores on the leased land is expressly prohibited in the absence of an agreement between the Lessee and the Authorized Officer authorizing such use of the surface of the land and providing for the necessary protection of life and property. Such agreement shall contain all of the terms and conditions under which the reduction or smelting of ores may be carried on and any violation of that agreement shall be considered a violation of the terms of this lease for the purpose of Section 10.

(c) Uses and Disposition of Surface. That the leased land shall be subject at all times to any other lawful uses or sale by the United States, its Lessees, Permittees, Licensees, and Assigns; provided that such uses or sale shall not prevent, obstruct, or unduly interfere with any privilege granted under this lease; Provided, that the Lessee shall recognize existing uses and commitments in the form of grazing, timber cutting, and special use permits, water developments, ditch, road, trail, pipeline, telephone and telegraph lines, fence, rights-of-way, and other similar improvements, and to conduct his operations so as to interfere as little as possible with the rights and privileges granted by these permits or with other existing uses.

(d) Granting Leases for Other Minerals. That the granting of this lease will not preclude the issuance of other leases of the same land for the purpose of mining and extracting oil, gas, oil shale, coal, phosphate, potassium, sodium, and sulphur.

Sec. 8. Relinquishment of Lease. The Lessee may surrender this lease or any one or more legal subdivisions included in the leased premises. If the lands are not described by legal subdivision, a partial relinquishment must describe definitely the lands surrendered and give the exact area thereof. A relinquishment must be filed in triplicate in the proper Land Office. Upon its acceptance, it will be effective as of the date it is filed, subject to the continued obligation of the Lessee and his surety to make payment of all accrued rentals and royalties, and to provide for the preservation of any mines or productive works or permanent improvements on the lands in accordance with the regulations and terms of the lease, and for the faithful compliance of all the terms of the lease.

Sec. 9. Removal of Equipment, etc., on Termination of Lease. On termination of this lease, by surrender, forfeiture, or otherwise, the Lessee shall have the privilege at any time within a period of one year thereafter of removing from the premises all machinery, equipment, tools, and materials, other than underground timbering placed by the Lessee in or on the leased lands, which are not necessary for the preservation of the mine. Any materials, tools, appliances, machinery, structures, and equipment, subject to removal as above provided, which are allowed to remain on the leased land shall become the property of the Lessor on expiration of the one-year period or such extension thereof as may be granted by the Lessor, but the Lessee shall remove any or all of such property when so directed by the Lessor.

Sec. 10. Proceedings in Case of Default. If the Lessee does not comply with the applicable regulations made a part hereof or the terms of this lease and such default continues for a period of 30 days, or such longer period as the Lessor determines may be reasonably required to correct the default, after service of written notice thereof by the Lessor, the Lessor may institute appropriate proceedings in a court of competent jurisdiction for the forfeiture and cancellation of this lease or seek such other administrative, legal or equitable remedies as may be appropriate. Furthermore, if the Lessee fails to take prompt and necessary steps to prevent loss or damage to the mine, property, or premises, or danger to the employees, the Lessor may enter on the premises and take such measures as may be deemed necessary to prevent such loss or damage, or to correct the dangerous or unsafe condition of the mine or works thereof, which shall be at the expense of the Lessee, but the Lessee shall not be held responsible for delays or casualties occasioned by causes beyond the Lessee's control.

Sec. 11. Heirs and Successors-in-Interest. Each obligation hereunder shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. Unlawful Interest. It is also further agreed that no Member of, or Delegate to, Congress, or Resident Commissioner, after his election or appointment, or either before or after he has qualified and during his continuance in office, and that no officer, agent, or employee of the Department of the Interior, except as provided in 43 CFR 7.4(a)(1), shall be admitted to any share or part in this lease or derive any benefit that may arise therefrom; and the provisions of Section 3741 of the Revised Statutes of the United States, as amended (41 U.S.C., Sec. 22), and sections 431, 432, and 433, Title 18 U.S.C., relating to contracts, enter into and form a part of this lease so far as the same may be applicable.

Sec. 13. Special Stipulations.

(a) In conformity with the principles of the Shipstead-Newton-Nolan Act of July 10, 1930 (16 U.S.C. 577), no occupancy or use of the surface within 400 feet of the shoreline of any lake or stream is authorized without the written approval of the Authorized Officer.

(b) Any and all operations authorized by this lease shall be done in accordance with a plan which must be submitted in triplicate and approved in writing by the Authorized Officer before such operations are begun. The operating plan will contain all such provisions as the Authorized Officer may reasonably determine are needed to maintain proper administration of the lands and surface resources. Where appropriate, depending upon the location and type of operation, the Authorized Officer may require the plan to contain provisions concerning the following matters:

1. The location and extent of areas to be occupied during operations.
2. The methods to be used in the operations.
3. The size and type of equipment to be used in the operations.
4. The capacity, character, standards of construction and size of all structures and facilities to be built.
5. The location and size of areas upon which vegetation will be destroyed or soil will be laid bare.

6. The steps which will be taken to prevent and control soil erosion.
7. The steps which will be taken to prevent water pollution.
8. The character, amount, and time of use of explosives or fire, including safety precautions which will be taken during their use.
9. The program proposed for rehabilitation and revegetation of disturbed lands.

If later operations require departure from or additions to the approved plan, revisions or amendments will be submitted in triplicate, with statements of the reasons for changes or additions, to the Authorized Officer for approval. Any and all operations conducted in advance of approval of an original, revised, or amended operating plan, or which are not in accord with an approved plan, constitute violations of the terms of this lease.

(c) If minerals from the leased premises be shipped outside the United States for treatment, Lessee shall, upon the call of the Lessor, and provided that there be no imposition of tariff, cause to be returned for sale or for use in the operations of the Lessee or of its affiliates in the United States quantities of copper equal to the quantities recovered from the minerals so shipped during the time of the call. The copper so returned shall be priced on no different basis than would then be applicable under circumstances prevailing had it been produced entirely within the United States and sold by a domestic producer, so that the prices will be competitive with those of domestic producers.

(d) Within 12 months after approval by the Authorized Officer Lessee will carry out a program in respect of this lease and the companion lease issued this day of drilling to ascertain the facts which will be essential to instituting production, and also will ship to the pilot plants of its parent company in Ontario, Canada, not less than 1,000 tons of ore to seek appropriate extractive metallurgical procedures therefor. The anticipated cost of the drilling program, to cover from 10,000 to 20,000 feet of drilling at an average cost of \$10 per foot is \$200,000. The estimated cost of preparing, transporting and treating the ore sample is \$125,000 to \$200,000; in addition revisions in and additions to the pilot plants in connection therewith are estimated to cost about \$250,000.

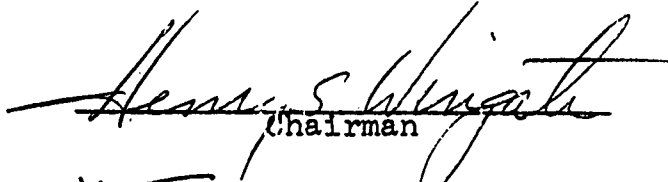
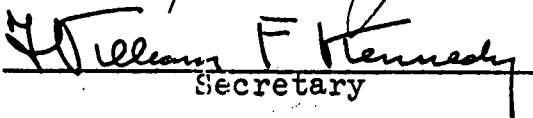
Sec. 14. Royalty Adjustment. If the Lessee shall have sunk a shaft for underground exploration or development or shall have otherwise commenced commercial development of the premises leased under this lease (or the companion lease issued to Lessee this day) within five years after the Regional Mining Supervisor shall have determined that the Federal and State governments have granted all necessary rights and authorizations for the construction, operation and maintenance of the leased premises, the rate of royalty payable under Section 2(b) with respect to the second ten years of the primary lease term shall be 4% in lieu of 4-1/2% as provided therein and the rates of royalty set forth in Section 5 shall not exceed (i) 4-1/2% during the first ten-year renewal

period, (ii) 5-1/2% during the second ten-year renewal period, and (iii) 6% during the third ten-year renewal period.

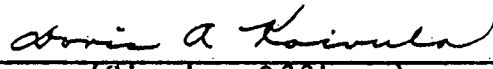
SIGNATURE OF LESSEE(S)

THE INTERNATIONAL NICKEL  
COMPANY, INC.

By

  
Chairman  
  
Secretary

THE UNITED STATES OF AMERICA

  
(Signing Officer)

Land Office Manager  
Eastern States Office  
(Title)

JUN 14 1966  
(Date)

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If this lease is executed by a corporation, it must bear the corporate seal.

#### EQUAL OPPORTUNITY

(a) The Nondiscrimination Clause, regarding "Equal Opportunity," in the attached mineral permit or lease, is amended by deleting references to the President's Committee on Equal Employment Opportunity, Executive Order No. 10925 of March 6, 1961, as amended, and section 303 of Executive Order No. 10925 of March 6, 1961, as amended; and substituting therefor the Secretary of Labor, Executive Order No. 11246 of September 24, 1965, and section 204 of Executive Order No. 11246 of September 24, 1965, respectively.

(b) In accordance with regulations of the Secretary of Labor, the rules, regulations, orders, instructions, designations, and other directives referred to in section 403(b) of Executive Order No. 11246, remain in effect and, where applicable, shall be observed in the performance of this contract until revoked or superseded by appropriate authority.

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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

MINERAL LEASE

This lease entered into on the 1st day of June, 1966, between the United States of America, as Lessor, through the Bureau of Land Management, and The International Nickel Company, Inc., a Delaware corporation with offices at 67 Wall Street, New York, New York, as Lessee, pursuant to the authority set out in, and subject to, Section 402 of the President's Reorganization Plan No. 3 of 1946, 60 Stat. 1099, and the Act of June 30, 1950, 64 Stat. 311, and to all regulations of the Secretary of the Interior now in force when not inconsistent with any of the provisions herein.

WITNESSETH:

Sec. 1. (a) Rights of Lessee. In consideration of the rents and royalties to be paid and conditions and covenants to be observed as herein set forth the Lessor grants to the Lessee, subject to all privileges and uses heretofore duly authorized and prior valid claims, the exclusive right to mine, remove, and dispose of all the copper and/or nickel minerals and associated minerals and, with the exception of oil, gas, oil shale, coal, phosphate, potassium, sodium, or sulphur, any other minerals in, upon, or under the following described lands in the United States, in the State of Minnesota:

In Lake County:

Township 62 North, Range 10 West of the Fourth Principal Meridian:

Section 19, All  
Section 20, SW-1/4  
Section 29, N-1/2  
Section 30, N-1/2

Lot 3 (NW-1/4 of SW-1/4)

Township 62 North, Range 11 West of the Fourth Principal Meridian:

Section 24, Lot 7  
SE-1/4 of SW-1/4  
S-1/2 of SE-1/4  
Section 25, N-1/2  
W-1/2 of SW-1/4 [undivided one-half interest]  
NE-1/4 of SE-1/4  
Section 26, S-1/2 of NE-1/4  
NE-1/4 of SW-1/4  
E-1/2 of SE-1/4 [undivided one-half interest]

containing ~~2,326.40~~ acres, more or less, together with the right

2,334.71 GROSS

2,254.71 NET

SEE DECISION 9-1-66

to construct and maintain thereon such structures and other facilities as may be necessary or convenient for the mining, preparation, and removal of said minerals, for a period of twenty (20) years with a right in the Lessee to renew the same for successive periods of ten (10) years each in accordance with regulation 43 CFR § 3221.4(f) and the provisions of this lease.

(b) Authorized Agency Representative. The United States agency having administrative control over the surface use of the land is the Department of Agriculture and its authorized agency representative, hereinafter called the "Authorized Officer," to whom inquiries should be addressed is the Supervisor, Superior National Forest at Duluth, Minnesota.

Sec. 2. In consideration of the foregoing, the Lessee agrees:

(a) Rentals. To pay to the Lessor annually in advance, beginning with the date of this lease, rental of one dollar (\$1.00) for each acre or fraction thereof for each lease year until production commences, the rental payment for the year in which production commences to be credited on royalties that accrue during that lease year.

(b) Royalty. To pay the Lessor within 30 days after the end of each period prescribed in subsection (e) of this section a royalty (i) at the rate of 4% during the first ten years of the primary term and (ii) at the rate of 4-1/2% during the second 10 years of the primary term, of the gross value of the minerals mined hereunder which are shipped to the concentrating mill during each such period. Said value for the purposes of this Agreement shall be taken to be one-third of the market prices of a quantity of fully-refined copper and of a quantity of fully-refined nickel equal to the respective quantities of unrefined copper and unrefined nickel contained in said minerals so shipped to the concentrating mill.

(c) Minimum royalty. Beginning after the tenth year of the lease, except with respect to any periods during which operations are interrupted by strikes, the elements or casualties not attributable to the Lessee, to mine each year from the area covered by the lease a quantity of the leased minerals such that the royalties payable for said year under subsections (b) and (d) hereof will during the primary term of the lease be at least equal to \$5 per annum per acre included in the leased premises at the beginning of such year, and during each renewal period of the lease be at least equal to \$10 per annum per acre included in the leased premises at the beginning of such year; or in lieu thereof to pay the Lessor as royalty within 30 days after the end of such year that amount which, when added to the royalties, if any, payable for said year under subsections (b) and (d) hereof, will equal the minimum royalty for that year herein provided. Lessor may in its discretion, waive, reduce, or suspend the minimum royalty payment for reasonable periods of time in the interest of conservation or when such action does not adversely affect the interest of the United States of America in accordance with the regulation 43 CFR § 3222.6-2.

(d) Additional royalty. (1) In order to provide a royalty in respect of any associated products (as hereinafter defined), to pay the Lessor within 30 days after the end of each period prescribed in subsection (e) of this section an additional royalty of 0.3% of the gross value of the minerals mined under this lease (determined on the basis of their copper and nickel content as provided in subsection (b) of this section) which are shipped to the concentrating mill during such

period. During the first ten years of the lease such additional royalty shall not be payable if the Lessee demonstrates that no associated products are being recovered from the minerals mined under this lease, but beginning after the tenth year of the lease, such additional royalty shall be payable whether or not associated products are recovered from the minerals mined under this lease.

(2) The Lessee will also pay the Lessor within 90 days after the end of each lease year a further additional royalty of 1% of the amount, if any, by which the gross value of associated products exceeds 20% of the aggregate market price as fully-refined metals of the quantity of copper and nickel contained in the minerals mined under this lease which are shipped to the concentrating mill during such lease year. At the request of either party following any lease year for which said 1% royalty has been payable and the gross value of associated products exceeds 30% of the said aggregate market price, representatives of the Lessor and the Lessee shall meet at a mutually agreeable time to consider and decide whether additional royalty for associated products shall continue to be payable as provided in this subsection (d), or shall (in lieu thereof) be payable on such basis as may be negotiated. In connection with such meeting the Lessee will make a reasonable investigation to ascertain insofar as practicable the volume of associated products which appear to be currently recovered from the minerals mined under this lease, and will provide the Lessor with the results of this investigation.

(3) For purposes of this agreement, the term "associated products" shall mean (i) fully-refined chemical elements (other than copper and nickel) not further processed and (ii) end products containing such elements produced by the Lessee (prior to full refining) for their value as such (other than products valuable chiefly by reason of their copper and/or nickel content), which are, in either case, recovered by the Lessee from minerals mined under this lease and sold or used by the Lessee during the lease year for which additional royalty, if any, is due; and the gross value of such products shall be taken to be the aggregate of the market prices of the respective quantities of associated products so sold or used by the Lessee.

(e) Statement. To furnish for each month or such longer period as may be prescribed by the Regional Mining Supervisor of the Geological Survey, statements in detail in such form as may be prescribed by him, of the amount and value under subsection (b) of this section of the minerals mined hereunder which are shipped to the concentrating mill during such period, for use in determining royalties, such statements to be furnished within 30 days from the close of such period. Falsification of such statements shall be grounds for cancellation of the lease.

(f) Market prices. For the purposes of this section the "market price of fully-refined copper" per pound shall be the average of the monthly average prices per pound for Domestic Refinery Electrolytic Copper in carload lots, f.o.b. Atlantic Seaboard refineries, published in E. & M. J. Metal and Mineral Markets for the period for which the royalty is being computed, and the "market price of fully-refined nickel" per pound shall be the average of the monthly average prices per pound for nickel (i.e., electrolytic nickel cathodes) in carload lots, f.o.b. Port Colborne, Ontario, Canada, United States import duty (if any) included, published in E. & M. J. Metal and Mineral Markets for the period for which royalty is being computed; and the respective "market prices of associated products" per unit

shall be the average of the monthly average prices per unit for such respective products in their usual and customary shipping quantities, f.o.b. their usual and customary place of disposal, published in E. & M. J. Metal and Mineral Markets for the period for which additional royalty, if any, is being computed.

(g) Bond. To furnish and maintain a bond in the sum of \$ 10,000.00 conditioned upon compliance with the terms and conditions of this lease, and to increase the amount thereof or furnish such other bond as may be required.

(h) Inspection. To permit at all reasonable times: (1) inspection by any authorized officer of the leased premises and all surface and underground improvements, works, machinery, equipment, and all books and records pertaining to operations and surveys or investigations under this lease; and (2) the Lessor to make copies of and extracts from any or all books and records pertaining to operations under this lease.

(i) Maps--Reports. To furnish, in duplicate, to the Regional Mining Supervisor, at such times as he may require, a plat in the manner and form prescribed by him showing prospecting and development work and improvements on the leased land and other related information, with a report as to all buildings, structures, and other works or equipment, situated elsewhere and owned or operated in conjunction with, or as a part of the operations conducted hereunder.

(j) To comply with all regulations of the Secretary of the Interior and the Secretary of Agriculture applicable to the leased premises which are under his jurisdiction; and to conduct operations in an orderly manner and in accordance with regulations in 30 CFR, Part 2250, and the applicable Federal and State laws; and to exercise reasonable diligence, skill, and care in the operation of the property; and to carry on all operations in accordance with approved methods and practices, having due regard for the prevention of damage to mineral deposits, water horizons and property, injury to life and health, and economic waste. *7-11-66 per memo from Legal Dept. Mining Staff (7226) dtg 7-5-66*

(k) Taxes. To pay when due all taxes lawfully assessed and levied under the laws of the State or the United States upon improvements, output of mines, and other rights, property, and assets of the Lessee.

(l) Deliver Premises. To deliver up to the Lessor in good order and condition and subject to the provisions of Section 9 hereof on the termination of this lease as a result of forfeiture thereof the lands covered thereby, including all underground timbering and such other supports and structures as are necessary for the preservation of the mine.

(m) Assignment. Not to assign this lease, or any interest therein, whether by direct assignment, operating agreement, working or royalty interest, or otherwise, nor sublet any portion of the leased premises, except with the approval in writing of the Lessor. All such assignments or subleases must be submitted in triplicate within 90 days from the date of execution and must contain all of the terms and conditions agreed upon by the parties thereto. Not to create overriding royalties in excess of those authorized by regulation 43 CFR § 3226.1.

An assignment of all or part of the record title to a portion of the acreage in the lease shall separate the lease into separate leaseholds and the terms hereof shall apply



otherwise provided by law.

(7) The Lessee will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the President's Committee on Equal Employment Opportunity issued pursuant to section 303 of Executive Order No. 10925 of March 6, 1961, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Lessee will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the Lessee becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Lessee may request the United States to enter into such litigation to protect the interests of the United States.

(o) Payments. Rentals under this lease shall be paid to the Manager of the proper Land Office, except that when this lease becomes productive the rentals and royalties shall be paid to the Regional Mining Supervisor of the United States Geological Survey, with whom all reports concerning operations under the lease shall be filed. All remittances to the Bureau of Land Management shall be made payable to the Bureau of Land Management, those to the Geological Survey shall be made payable to the United States Geological Survey.

Sec. 3. Lessee further agrees:

(a) Protection of Property. To conduct all operations hereunder with due regard for good land management, not to cut or destroy timber without previous permission from the Authorized Officer and to pay for such timber at rates prescribed by him; to avoid damage to improvements, timber, crops, or other cover; unless otherwise authorized by the Authorized Officer, not drill any well, carry on operations, make excavations, construct tunnels, drill, or otherwise disturb the surface of the lands within 200 feet of any building thereon and whenever required in writing by the Authorized Officer, and upon any partial or total relinquishment, cancellation or termination of this lease as to that portion of the land to which his rights have terminated, to fence or fill all sump holes, ditches and other excavations, remove or cover all debris, and so far as reasonably possible, reseed or otherwise restore the surface of the lands to their former condition, or to a productive or other condition satisfactory to the Authorized Officer, including the removal of structures as and if required, and when required by such Officer to bury all pipelines below plow depth.

(b) Fire precautions. To do all in his power to prevent and suppress fires on the land and vicinity, and to require his employees, contractors, and subcontractors to do likewise. Unless prevented by circumstances over which he has no control, to place his employees, contractors, and subcontractors at the disposal of the Authorized Officer for the purpose of fighting fires on or originating on the land or on adjacent areas or caused by the negligence of the Lessee or his employees, contractors, and subcontractors, with the understanding that payment for such services shall be made at rates to be determined by such Authorized Officer but not less than the current rates of pay prevailing in the vicinity for services of a similar character: Provided, that if the

separately to the segregated portions. Advance annual rental payments, if previously terminated, shall be resumed as to an undeveloped segregated portion on the next anniversary date of the lease; the minimum royalty payment herein specified shall apply separately to the segregated portions and the time allowed within which to commence operations on an undeveloped segregated portion shall be such reasonable period as shall be prescribed by the Lessor at the time the assignment is approved.

(n) Nondiscrimination Clauses. In connection with the performance of work under this contract, the Lessee agrees as follows:

(1) The Lessee will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Lessee will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Lessee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the authorized contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The Lessee will, in all solicitations or advertisements for employees placed by or on behalf of the Lessee state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

(3) The Lessee will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the said labor union or workers' representative of the Lessee's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Lessee will comply with all provisions of Executive Order No. 10925 of March 6, 1961, as amended, and of the rules, regulations, and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.

(5) The Lessee will furnish all information and reports required by Executive Order No. 10925 of March 6, 1961, as amended, and by the rules, regulations, and orders of the said Committee, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Committee for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Lessee's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the Lessee may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 10925 of March 6, 1961, as amended, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order or by rule, regulation, or order of the President's Committee on Equal Employment Opportunity, or as

Lessee, his employees, contractors, or subcontractors, or employees of any of them, caused or could have prevented the origin or spread of said fire or fires, no payment shall be made for services so rendered. During periods of serious fire danger, as may be specified by the Authorized Officer, the Lessee shall prohibit smoking and the building of camp and lunch fires by his employees, contractors, and subcontractors, within the leased area except at established camps, and shall enforce this prohibition by all means within his power: Provided, that the Authorized Officer may designate safe places where, after all inflammable material has been cleared away, campfires may be built for the purpose of heating lunches and where, at the option of the Lessee, smoking may be permitted. The Lessee will not burn rubbish, trash, or other inflammable materials except with the consent of the Authorized Officer. The Lessee shall build or construct such fire lines or do such clearing on the land as the Authorized Officer decides is essential for forest, brush, and grass fire prevention which is or may be necessitated by the exercise of the privileges authorized by this lease, and shall maintain such fire tools at his headquarters or at the appropriate location on the land as are deemed necessary by such Officer.

(c) Approval of Construction. Not to clear or use the land for development or for construction purposes of any kind until a plan of construction and development therefor has been approved by the Authorized Officer and that in the location, design, construction and maintenance of all authorized works, camps, buildings, plants, waterways, roads, telegraph or telephone lines, pipelines, reservoirs, tanks, pumping stations, or other structures or clearance, Lessee shall do all things reasonably necessary to prevent or reduce scarring and erosion of the land, pollution of the water resources and any damage to the watershed.

(d) Damage to Property. To pay the Lessor or its tenant, as the case may be, for any and all damage to or destruction of property caused by the Lessee's operations hereunder; to save and hold the Lessor or the surface owner or their tenants harmless from all damage or claims for damage to persons or property resulting from the Lessee's operations under this lease; and where the surface of the leased land is owned by other than the Lessor, to pay such owner, or his tenant, as the case may be, for damage or injury to livestock, crops, trees, pipelines, buildings, and other improvements of the leased lands. That where construction, operation, or maintenance of any of the facilities on or connected with this lease causes damage to the watershed or pollution of the water resources, to repair such damage and to take such corrective measures as are required by the Authorized Officer, including the reseeding or other restoration of the vegetative cover.

(e) Protection of Livestock; Access to Leased Lands. To install and maintain cattle guards to prevent the passage of livestock in any openings made in fences by the Lessee or his contractors to provide access to the lands covered by this lease for automotive and other equipment.

(f) Authorized Officer. All inquiries relating to this section should be addressed to the Authorized Officer named in Section 1(b) of this lease.

Sec. 4. Lessee--Agent. Prior to the beginning of operations the Lessee shall appoint and maintain at all times during the term of this lease a local agent upon whom may be served written orders or notices respecting matters contained in this lease, and shall inform the Authorized Officer and the Regional

Mining Supervisor of the Geological Survey, in writing, of the name and address of such agent. If a substitute agent is appointed, the Lessee shall immediately so inform the said Officers.

Sec. 5. Renewal Terms. The Lessor shall have the right to reasonably readjust and fix royalties payable hereunder at the end of the primary term of this lease and thereafter at the end of each successive renewal thereof unless otherwise provided by law at the time of the expiration of any such period, and to readjust other terms and conditions of the lease, including the revision of or imposition of stipulations for the protection of the surface of the land as may be required by the agency having jurisdiction thereover; provided, however, that the Lessee shall have the right to three successive ten-year renewals of this lease with any readjustment in the royalties payable hereunder limited to that hereinafter provided and with no readjustment of any of the other terms and conditions of this lease unless at the end of the primary term of this lease the Lessee shall not have begun production, either hereunder or under the companion lease granted to the Lessee this day. The Secretary of the Interior may grant extensions of time for commencement of production in the interest of conservation or upon a satisfactory showing by the Lessee that the lease cannot be successfully operated at a profit or for other reasons, and the Lessee shall be entitled to renewal as herein provided without readjustment except of royalties payable hereunder if at the end of the primary or renewal period such an extension shall be in effect, but the Lessee shall not be entitled to subsequent such renewals unless it shall have begun production within the extended time. If the Lessee shall be entitled to renewal without readjustment except of royalties payable hereunder, the Secretary of the Interior may in his discretion increase the royalty rate prescribed in subsection (b) of Section 2 up to, but not exceeding (i) 5% during the first ten-year renewal period, (ii) 6% during the second ten-year renewal period, and (iii) 7% during the third ten-year renewal period. The extent of readjustment of royalty, if any, to be made under this section shall be determined prior to the commencement of the renewal period.

Sec. 6. The Lessor expressly reserves:

(a) Rights Reserved. The right to permit for joint or several use easements or rights-of-way, including easements in tunnels upon, through, or in the land leased, occupied, or used as may be necessary or appropriate to the working of the same or other lands, and the preparation and shipment of the products thereof by or under authority of the Government, its Lessees or Permittees, and for other public purposes.

(b) Waiver of Conditions. The right to waive any breach of the covenants and conditions contained herein, but any such waiver shall extend only to the particular breach so waived and shall not limit the rights of the Lessor with respect to any future breach; nor shall the waiver of a particular cause of forfeiture prevent cancellation of this lease for any other cause, or for the same cause occurring at another time.

Sec. 7. It is mutually agreed:

(a) Mining Methods. That this lease does not authorize the mining or removal of the mineral deposits by stripping, rim cutting, or open pit methods without the prior written

approval of the Authorized Officer and on such conditions as he may prescribe.

(b) Reduction or Smelting of Ores. That the reduction or smelting of ores on the leased land is expressly prohibited in the absence of an agreement between the Lessee and the Authorized Officer authorizing such use of the surface of the land and providing for the necessary protection of life and property. Such agreement shall contain all of the terms and conditions under which the reduction or smelting of ores may be carried on and any violation of that agreement shall be considered a violation of the terms of this lease for the purpose of Section 10.

(c) Uses and Disposition of Surface. That the leased land shall be subject at all times to any other lawful uses or sale by the United States, its Lessees, Permittees, Licensees, and Assigns; provided that such uses or sale shall not prevent, obstruct, or unduly interfere with any privilege granted under this lease; Provided, that the Lessee shall recognize existing uses and commitments in the form of grazing, timber cutting, and special use permits, water developments, ditch, road, trail, pipeline, telephone and telegraph lines, fence, rights-of-way, and other similar improvements, and to conduct his operations so as to interfere as little as possible with the rights and privileges granted by these permits or with other existing uses.

(d) Granting Leases for Other Minerals. That the granting of this lease will not preclude the issuance of other leases of the same land for the purpose of mining and extracting oil, gas, oil shale, coal, phosphate, potassium, sodium, and sulphur.

Sec. 8. Relinquishment of Lease. The Lessee may surrender this lease or any one or more legal subdivisions included in the leased premises. If the lands are not described by legal subdivision, a partial relinquishment must describe definitely the lands surrendered and give the exact area thereof. A relinquishment must be filed in triplicate in the proper Land Office. Upon its acceptance, it will be effective as of the date it is filed, subject to the continued obligation of the Lessee and his surety to make payment of all accrued rentals and royalties, and to provide for the preservation of any mines or productive works or permanent improvements on the lands in accordance with the regulations and terms of the lease, and for the faithful compliance of all the terms of the lease.

Sec. 9. Removal of Equipment, etc., on Termination of Lease. On termination of this lease, by surrender, forfeiture, or otherwise, the Lessee shall have the privilege at any time within a period of one year thereafter of removing from the premises all machinery, equipment, tools, and materials, other than underground timbering placed by the Lessee in or on the leased lands, which are not necessary for the preservation of the mine. Any materials, tools, appliances, machinery, structures, and equipment, subject to removal as above provided, which are allowed to remain on the leased land shall become the property of the Lessor on expiration of the one-year period or such extension thereof as may be granted by the Lessor, but the Lessee shall remove any or all of such property when so directed by the Lessor.

Sec. 10. Proceedings in Case of Default. If the Lessee does not comply with the applicable regulations made a part hereof or the terms of this lease and such default continues for a period of 30 days, or such longer period as the Lessor determines may be reasonably required to correct the default, after service of written notice thereof by the Lessor, the Lessor may institute appropriate proceedings in a court of competent jurisdiction for the forfeiture and cancellation of this lease or seek such other administrative, legal or equitable remedies as may be appropriate. Furthermore, if the Lessee fails to take prompt and necessary steps to prevent loss or damage to the mine, property, or premises, or danger to the employees, the Lessor may enter on the premises and take such measures as may be deemed necessary to prevent such loss or damage, or to correct the dangerous or unsafe condition of the mine or works thereof, which shall be at the expense of the Lessee, but the Lessee shall not be held responsible for delays or casualties occasioned by causes beyond the Lessee's control.

Sec. 11. Heirs and Successors-in-Interest. Each obligation hereunder shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. Unlawful Interest. It is also further agreed that no Member of, or Delegate to, Congress, or Resident Commissioner, after his election or appointment, or either before or after he has qualified and during his continuance in office, and that no officer, agent, or employee of the Department of the Interior, except as provided in 43 CFR 7.4(a)(1), shall be admitted to any share or part in this lease or derive any benefit that may arise therefrom; and the provisions of Section 3741 of the Revised Statutes of the United States, as amended (41 U.S.C., Sec. 22), and sections 431, 432, and 433, Title 18 U.S.C., relating to contracts, enter into and form a part of this lease so far as the same may be applicable.

Sec. 13. Special Stipulations.

(a) In conformity with the principles of the Shipstead-Newton-Nolan Act of July 10, 1930 (16 U.S.C. 577), no occupancy or use of the surface within 400 feet of the shoreline of any lake or stream is authorized without the written approval of the Authorized Officer.

(b) Any and all operations authorized by this lease shall be done in accordance with a plan which must be submitted in triplicate and approved in writing by the Authorized Officer before such operations are begun. The operating plan will contain all such provisions as the Authorized Officer may reasonably determine are needed to maintain proper administration of the lands and surface resources. Where appropriate, depending upon the location and type of operation, the Authorized Officer may require the plan to contain provisions concerning the following matters:

1. The location and extent of areas to be occupied during operations.
2. The methods to be used in the operations.
3. The size and type of equipment to be used in the operations.
4. The capacity, character, standards of construction and size of all structures and facilities to be built.
5. The location and size of areas upon which vegetation will be destroyed or soil will be laid bare.

6. The steps which will be taken to prevent and control soil erosion.
7. The steps which will be taken to prevent water pollution.
8. The character, amount, and time of use of explosives or fire, including safety precautions which will be taken during their use.
9. The program proposed for rehabilitation and revegetation of disturbed lands.

If later operations require departure from or additions to the approved plan, revisions or amendments will be submitted in triplicate, with statements of the reasons for changes or additions, to the Authorized Officer for approval. Any and all operations conducted in advance of approval of an original, revised, or amended operating plan, or which are not in accord with an approved plan, constitute violations of the terms of this lease.

(c) If minerals from the leased premises be shipped outside the United States for treatment, Lessee shall, upon the call of the Lessor, and provided that there be no imposition of tariff, cause to be returned for sale or for use in the operations of the Lessee or of its affiliates in the United States quantities of copper equal to the quantities recovered from the minerals so shipped during the time of the call. The copper so returned shall be priced on no different basis than would then be applicable under circumstances prevailing had it been produced entirely within the United States and sold by a domestic producer, so that the prices will be competitive with those of domestic producers.

(d) Within 12 months after approval by the Authorized Officer Lessee will carry out a program in respect of this lease and the companion lease issued this day of drilling to ascertain the facts which will be essential to instituting production, and also will ship to the pilot plants of its parent company in Ontario, Canada, not less than 1,000 tons of ore to seek appropriate extractive metallurgical procedures therefor. The anticipated cost of the drilling program, to cover from 10,000 to 20,000 feet of drilling at an average cost of \$10 per foot is \$200,000. The estimated cost of preparing, transporting and treating the ore sample is \$125,000 to \$200,000; in addition revisions in and additions to the pilot plants in connection therewith are estimated to cost about \$250,000.

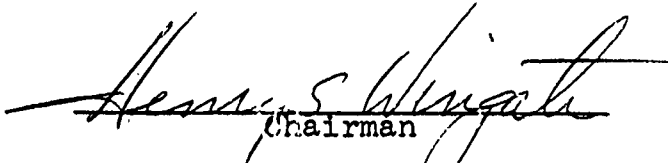
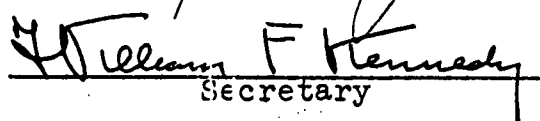
Sec. 14. Royalty Adjustment. If the Lessee shall have sunk a shaft for underground exploration or development or shall have otherwise commenced commercial development of the premises leased under this lease (or the companion lease issued to Lessee this day) within five years after the Regional Mining Supervisor shall have determined that the Federal and State governments have granted all necessary rights and authorizations for the construction, operation and maintenance of the leased premises, the rate of royalty payable under Section 2(b) with respect to the second ten years of the primary lease term shall be 4% in lieu of 4-1/2% as provided therein and the rates of royalty set forth in Section 5 shall not exceed (i) 4-1/2% during the first ten-year renewal

period, (ii) 5-1/2% during the second ten-year renewal period, and (iii) 6% during the third ten-year renewal period.

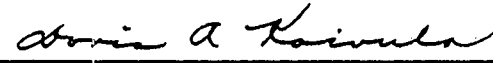
SIGNATURE OF LESSEE(S)

THE INTERNATIONAL NICKEL  
COMPANY, INC.

By

  
Chairman  
  
Secretary

THE UNITED STATES OF AMERICA

  
(Signing Officer)

Land Office Manager  
Eastern States Office  
(Title)

JUN 14 1966  
(Date)

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If this lease is executed by a corporation, it must bear the corporate seal.

EQUAL OPPORTUNITY

(a) The Nondiscrimination Clause, regarding "Equal Opportunity," in the attached mineral permit or lease, is amended by deleting references to the President's Committee on Equal Employment Opportunity, Executive Order No. 10925 of March 6, 1961, as amended, and section 303 of Executive Order No. 10925 of March 6, 1961, as amended; and substituting therefor the Secretary of Labor, Executive Order No. 11246 of September 24, 1965, and section 204 of Executive Order No. 11246 of September 24, 1965, respectively.

(b) In accordance with regulations of the Secretary of Labor, the rules, regulations, orders, instructions, designations, and other directives referred to in section 403(b) of Executive Order No. 11246, remain in effect and, where applicable, shall be observed in the performance of this contract until revoked or superseded by appropriate authority.



## PART II. TERMS AND CONDITIONS

Sec. 1. (a) RENTAL RATE - Lessee shall pay lessor rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate indicated below:

*Sulphur, Gilsonite -*

☐ 50 cents for the first lease year and each succeeding lease year;

*Hardrock -*

☐ \$1 for the first lease year and \$1 for each succeeding lease year;

*Phosphate -*

☐ 25 cents for the first lease year, 50 cents for the second and third lease years, and \$1 for each and every lease year thereafter;

*Potassium, Sodium -*

☐ 25 cents for the first calendar year or fraction thereof, 50 cents for the second, third, fourth, and fifth calendar years respectively, and \$1 for the sixth and each succeeding calendar year; or

*Sodium, Sulphur, Asphalt, and Hardrock Renewal Leases -*

☒ \$ 1.00 for each lease year;

(b) RENTAL CREDITS - The rental for any year will be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

\* Sec. 2. (a) PRODUCTION ROYALTIES - Lessee shall pay lessor a production royalty in accordance with the attached schedule. Such production royalty is due the last day of the month next following the month in which the minerals are sold or removed from the leased lands.

\*\* (b) MINIMUM ANNUAL PRODUCTION AND MINIMUM ROYALTY - (1) Lessee shall produce on an annual basis a minimum amount of copper, nickel & assoc. mins., except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. Lessor may permit suspension of operations under the lease when marketing conditions are such that the lease cannot be operated except at a loss. (2) At the request of the lessee, made prior to initiation of the lease year, the authorized officer may allow in writing the payment of a \$3.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year. Minimum royalty payments shall be credited to production royalties for that year.

Sec. 3. REDUCTION AND SUSPENSION - In accordance with Section 39 of the Mineral Leasing Act, 30 U.S.C. 209, the lessor reserves the authority to waive, suspend or reduce rental or minimum royalty, or to reduce royalty, and reserves the authority to assent to or order the suspension of this lease.

Sec. 4. BONDS - Lessee shall maintain in the proper office a lease bond in the amount of \$ 5,000, or in lieu thereof, an acceptable statewide or nationwide bond. The authorized officer may require an increase in this amount when additional coverage is determined appropriate.

• Sec. 5. DOCUMENTS, EVIDENCE AND INSPECTION - At such times and in such form as lessor may prescribe, lessee

shall furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.

Lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of lessor, the leased premises and all surface and underground improvements, work, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.

Lessee shall either submit or provide lessor access to and copying of documents reasonably necessary to verify lessee compliance with terms and conditions of the lease.

While this lease remains in effect, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Sec. 6. DAMAGES TO PROPERTY AND CONDUCT OF OPERATIONS - Lessee shall exercise reasonable diligence, skill, and care in the operation of the property, and carry on all operations in accordance with approved methods and practices as provided in the operating regulations, having due regard for the prevention of injury to life, health or property, and of waste or damage to any water or mineral deposits.

Lessee shall not conduct exploration or operations, other than casual use, prior to receipt of necessary permits or approval of plans of operations by lessor.

Lessee shall carry on all operations in accordance with approved methods and practices as provided in the operating regulations, and the approved mining plans in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, minerals, and other resources, and to other land uses or users. Lessee shall take measures deemed necessary by lessor to accomplish the intent of this lease term. Such measures may include, but are not limited to, modification to proposed siting or design of facilities, timing of operations, and specification of interim and final reclamation procedures.

Lessor reserves to itself the right to lease, sell, or otherwise dispose of the surface or other mineral deposits in the lands and the right to continue existing uses and to authorize future uses upon or in the leased lands, including issuing leases for mineral deposits not covered hereunder or the approval of easements or rights-of-way. Lessor shall condition such uses to prevent unnecessary or unreasonable interference with rights of lessee as may be consistent with concepts of multiple use and multiple mineral development.

Sec. 7. PROTECTION OF DIVERSE INTERESTS, AND EQUAL OPPORTUNITY - Lessee shall: pay when due all taxes legally assessed and levied under the laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States; maintain a safe working environment in accordance with standard industry practices; restrict the workday to not more than 8 hours in any one day for underground workers, except in emergencies; and take measures necessary to protect the health and safety of the public. No person under the age of 16 years shall be employed in any mine below the surface. To the extent that laws of the State in which the lands are

situated are more restrictive than the provisions in this paragraph, then the State laws apply.

Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec. 8. (a) TRANSFERS - This lease may be transferred in whole or in part to any person, association or corporation qualified to hold such lease interest.

(b) RELINQUISHMENT - The lessee may relinquish in writing at any time all rights under this lease or any portion thereof as provided in the regulations. Upon lessor's acceptance of the relinquishment, lessee shall be relieved of all future obligations under the lease or the relinquished portion thereof, whichever is applicable.

Sec. 9. DELIVERY OF PREMISES, REMOVAL OF MACHINERY, EQUIPMENT, ETC. - At such time as all or portions of this lease are returned to lessor, lessee shall deliver up to lessor the land leased, underground timbering, and such other supports and structures necessary for the preservation of the mine workings on the leased premises or deposits and place all wells in condition for suspension or abandonment. Within 180 days thereof, lessee shall remove from the premises all other structures, machinery, equipment, tools, and materials that it elects to or as required by the authorized officer. Any such structures, machinery, equipment, tools, and materials remaining on the leased lands beyond 180 days, or approved extension thereof, shall become the property of the lessor, but lessee shall either remove any or all such property or shall continue to be liable for the cost of removal and disposal in the amount actually incurred by the lessor. If the surface is owned by third parties, lessor shall waive the requirement for removal, provided the third parties do not object to such

waiver. Lessee shall, prior to the termination of bond liability or at any other time when required and in accordance with all applicable laws and regulations, reclaim all lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities on the leased lands, and reclaim access roads or trails.

Sec. 10. PROCEEDINGS IN CASE OF DEFAULT - If lessee fails to comply with applicable laws, now existing regulations, or the terms, conditions and stipulations of this lease, and the noncompliance continues for 30 days after written notice thereof, this lease shall be subject to cancellation by the lessor only by judicial proceedings. This provision shall not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver shall not prevent later cancellation for the same default occurring at any other time.

Sec. 11. HEIRS AND SUCCESSORS-IN-INTEREST - Each obligation of this lease shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. INDEMNIFICATION - Lessee shall indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under this lease.

Sec. 13. SPECIAL STATUTES - This lease is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151-1175), the Clean Air Act (42 U.S.C. 1857 et. seq.), and to all other applicable laws pertaining to exploration activities, mining operations and reclamation.

#### Sec. 14. SPECIAL STIPULATIONS -

\* The terms and conditions of the production royalties remains as stated in the attached original lease agreement.

\*\* The minimum annual production and minimum royalty is \$10.00 per acre or a fraction thereof as stated in the attached original lease agreement.



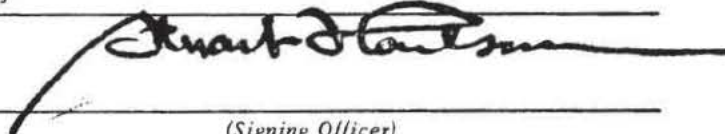
Sec. 14. SPECIAL STIPULATIONS - (Cont.)

THE UNITED STATES OF AMERICA

INGO ALLOYS INTERNATIONAL, INC.

Company or Lessee Name

By



(Signing Officer)

Deputy State Director for Mineral Resources

(Title)

JUN 27 1989

(Date)

x By 

(Signature of Lessee)

x Chief Legal Officer & Secretary

(Title)

x May 5, 1989

(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

NOTICE

The Privacy Act of 1974 and the regulations in 43 CFR 2.48(d) provides that you be furnished the following information in connection with information required under the terms of this lease.

AUTHORITY: 30 U.S.C. 181 et seq.; 43 CFR 3500.

PRINCIPAL PURPOSE: The information will be used to verify your compliance with the lease terms and in calculating royalty payments.

ROUTINE USES: (1) Evaluation of the effects of the operations on the environment. (2) Statistical reports to Congress. (3)(4) and (5) Information from the record and/or the record may be released or transferred to appropriate Federal, State or local agencies in allocating mineral revenue, for investigations of energy programs; and when relevant to civil, criminal or regulatory investigations or prosecutions, as well as routine regulatory responsibility.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of this information is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected for use in calculating royalty payments and in verification of compliance with lease terms.

Response to this request is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

Serial Number

Renewal Preference Right **LEASE**

MNES 1353

**PART I. LEASE RIGHTS GRANTED.**

This ☐ Lease ☒ Lease Renewal entered into by and between the UNITED STATES OF AMERICA, through the Bureau of Land Management, hereinafter called lessor, and (Name and Address)

INCO Alloys International, Inc.

One New York Plaza

New York, New York 10004

hereinafter called lessee, is effective (date)

**JUL 01 1989**

, for a period of ten years,

Sodium, Sulphur, Hardrock -

☒ with preferential right in the lessee to renew for successive periods of ten years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.

Potassium, Phosphate, Gilsonite -

☐ and for so long thereafter as lessee complies with the terms and conditions of this lease which are subject to readjustment at the end of each year period, unless otherwise provided by law.

Sec. 1. This lease is issued pursuant and subject to the terms and provisions of the:

☐ Mineral Leasing Act of 1920, as amended, and supplemented, 41 Stat. 437, 30 U.S.C. 181-287, hereinafter referred to as the Act;

☐ Mineral Leasing Act for Acquired Lands, Act of August 7, 1947, 61 Stat. 913, 30 U.S.C. 351-359;

☒ Reorganization Plan No. 3 of 1946, 60 Stat. 1099 and 43 U.S.C. 1201;

☐ (Other)

; and  
to the regulations and general mining orders of the Secretary of the Interior in force on the date this lease issued.

Sec. 2. Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to explore for, drill for, mine, extract, remove, beneficiate, concentrate, or otherwise process and dispose of the copper deposits nickel and associated minerals hereinafter referred to as "leased deposits," in, upon, or under the following described lands:

see attached

containing 2,254.71 acres, more or less, together with the right to construct such works, buildings, plants, structures, equipment and appliances and the right to use such on-lease rights-of-way which may be necessary and convenient in the exercise of the rights and privileges granted, subject to the conditions herein provided.

Phosphate -

☐ In accordance with Section 11 of the Act (30 U.S.C. 213), lessee may use deposits of silica, limestone, or other rock in the processing or refining of the phosphates, phosphate rock, and associated or related minerals mined from the leased lands or other lands upon payments of royalty as set forth on the attachment to this lease. (Phosphate leases only.)

## PART II. TERMS AND CONDITIONS

Sec. 1. (a) RENTAL RATE - Lessee shall pay lessor rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate indicated below:

*Sulphur, Gilsonite -*

☐ 50 cents for the first lease year and each succeeding lease year;

*Hardrock -*

☐ \$1 for the first lease year and \$1 for each succeeding lease year;

*Phosphate -*

☐ 25 cents for the first lease year, 50 cents for the second and third lease years, and \$1 for each and every lease year thereafter;

*Potassium, Sodium -*

☐ 25 cents for the first calendar year or fraction thereof, 50 cents for the second, third, fourth, and fifth calendar years respectively, and \$1 for the sixth and each succeeding calendar year; or

*Sodium, Sulphur, Asphalt, and Hardrock Renewal Leases -*

☒ \$ 1.00 for each lease year;

(b) RENTAL CREDITS - The rental for any year will be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

\* Sec. 2. (a) PRODUCTION ROYALTIES - Lessee shall pay lessor a production royalty in accordance with the attached schedule. Such production royalty is due the last day of the month next following the month in which the minerals are sold or removed from the leased lands.

\*\* (b) MINIMUM ANNUAL PRODUCTION AND MINIMUM ROYALTY - (1) Lessee shall produce on an annual basis a minimum amount of copper, nickel & assoc. mins., except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. Lessor may permit suspension of operations under the lease when marketing conditions are such that the lease cannot be operated except at a loss. (2) At the request of the lessee, made prior to initiation of the lease year, the authorized officer may allow in writing the payment of a \$3.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year. Minimum royalty payments shall be credited to production royalties for that year.

Sec. 3. REDUCTION AND SUSPENSION - In accordance with Section 39 of the Mineral Leasing Act, 30 U.S.C. 209, the lessor reserves the authority to waive, suspend or reduce rental or minimum royalty, or to reduce royalty, and reserves the authority to assent to or order the suspension of this lease.

Sec. 4. BONDS - Lessee shall maintain in the proper office a lease bond in the amount of \$ 5,000, or in lieu thereof, an acceptable statewide or nationwide bond. The authorized officer may require an increase in this amount when additional coverage is determined appropriate.

Sec. 5. DOCUMENTS, EVIDENCE AND INSPECTION - At such times and in such form as lessor may prescribe, lessee

shall furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.

Lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of lessor, the leased premises and all surface and underground improvements, work, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.

Lessee shall either submit or provide lessor access to and copying of documents reasonably necessary to verify lessee compliance with terms and conditions of the lease.

While this lease remains in effect, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Sec. 6. DAMAGES TO PROPERTY AND CONDUCT OF OPERATIONS - Lessee shall exercise reasonable diligence, skill, and care in the operation of the property, and carry on all operations in accordance with approved methods and practices as provided in the operating regulations, having due regard for the prevention of injury to life, health or property, and of waste or damage to any water or mineral deposits.

Lessee shall not conduct exploration or operations, other than casual use, prior to receipt of necessary permits or approval of plans of operations by lessor.

Lessee shall carry on all operations in accordance with approved methods and practices as provided in the operating regulations, and the approved mining plans in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, minerals, and other resources, and to other land uses or users. Lessee shall take measures deemed necessary by lessor to accomplish the intent of this lease term. Such measures may include, but are not limited to, modification to proposed siting or design of facilities, timing of operations, and specification of interim and final reclamation procedures.

Lessor reserves to itself the right to lease, sell, or otherwise dispose of the surface or other mineral deposits in the lands and the right to continue existing uses and to authorize future uses upon or in the leased lands, including issuing leases for mineral deposits not covered hereunder or the approval of easements or rights-of-way. Lessor shall condition such uses to prevent unnecessary or unreasonable interference with rights of lessee as may be consistent with concepts of multiple use and multiple mineral development.

Sec. 7. PROTECTION OF DIVERSE INTERESTS, AND EQUAL OPPORTUNITY - Lessee shall: pay when due all taxes legally assessed and levied under the laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States; maintain a safe working environment in accordance with standard industry practices; restrict the workday to not more than 8 hours in any one day for underground workers, except in emergencies; and take measures necessary to protect the health and safety of the public. No person under the age of 16 years shall be employed in any mine below the surface. To the extent that laws of the State in which the lands are



situated are more restrictive than the provisions in this paragraph, then the State laws apply.

Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec. 8. (a) TRANSFERS - This lease may be transferred in whole or in part to any person, association or corporation qualified to hold such lease interest.

(b) RELINQUISHMENT - The lessee may relinquish in writing at any time all rights under this lease or any portion thereof as provided in the regulations. Upon lessor's acceptance of the relinquishment, lessee shall be relieved of all future obligations under the lease or the relinquished portion thereof, whichever is applicable.

Sec. 9. DELIVERY OF PREMISES, REMOVAL OF MACHINERY, EQUIPMENT, ETC. - At such time as all or portions of this lease are returned to lessor, lessee shall deliver up to lessor the land leased, underground timbering, and such other supports and structures necessary for the preservation of the mine workings on the leased premises or deposits and place all wells in condition for suspension or abandonment. Within 180 days thereof, lessee shall remove from the premises all other structures, machinery, equipment, tools, and materials that it elects to or as required by the authorized officer. Any such structures, machinery, equipment, tools, and materials remaining on the leased lands beyond 180 days, or approved extension thereof, shall become the property of the lessor, but lessee shall either remove any or all such property or shall continue to be liable for the cost of removal and disposal in the amount actually incurred by the lessor. If the surface is owned by third parties, lessor shall waive the requirement for removal, provided the third parties do not object to such

waiver. Lessee shall, prior to the termination of bond liability or at any other time when required and in accordance with all applicable laws and regulations, reclaim all lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities on the leased lands, and reclaim access roads or trails.

Sec. 10. PROCEEDINGS IN CASE OF DEFAULT - If lessee fails to comply with applicable laws, now existing regulations, or the terms, conditions and stipulations of this lease, and the noncompliance continues for 30 days after written notice thereof, this lease shall be subject to cancellation by the lessor only by judicial proceedings. This provision shall not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver shall not prevent later cancellation for the same default occurring at any other time.

Sec. 11. HEIRS AND SUCCESSORS-IN-INTEREST - Each obligation of this lease shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. INDEMNIFICATION - Lessee shall indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under this lease.

Sec. 13. SPECIAL STATUTES - This lease is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151-1175), the Clean Air Act (42 U.S.C. 1857 et. seq.), and to all other applicable laws pertaining to exploration activities, mining operations and reclamation.

Sec. 14. SPECIAL STIPULATIONS -

\* The terms and conditions of the production royalties remains as stated in the attached original lease agreement.

\*\* The minimum annual production and minimum royalty is \$10.00 per acre or a fraction thereof as stated in the attached original lease agreement.

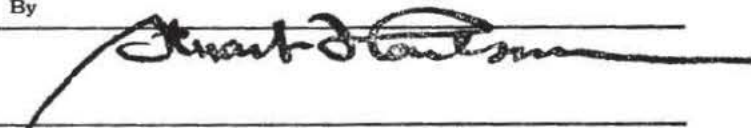
Sec. 14. SPECIAL STIPULATIONS - (Cont.)

THE UNITED STATES OF AMERICA

INCO ALLOYS INTERNATIONAL, INC

Company or Lessee Name

By



(Signing Officer)

Deputy State Director for Mineral Resources

(Title)

JUN 27 1989

(Date)

By *[Signature]*  
(Signature of Lessee)

Chief Legal Officer & Secretary  
(Title)

May 5, 1989  
(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

NOTICE

The Privacy Act of 1974 and the regulations in 43 CFR 2.48(d) provides that you be furnished the following information in connection with information required under the terms of this lease.

AUTHORITY: 30 U.S.C. 181 et seq.; 43 CFR 3500.

PRINCIPAL PURPOSE: The information will be used to verify your compliance with the lease terms and in calculating royalty payments.

ROUTINE USES: (1) Evaluation of the effects of the operations on the environment. (2) Statistical reports to Congress. (3)(4) and (5) Information from the record and/or the record may be released or transferred to appropriate Federal, State or local agencies in allocating mineral revenue, for investigations of energy programs; and when relevant to civil, criminal or regulatory investigations or prosecutions, as well as routine regulatory responsibility.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of this information is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected for use in calculating royalty payments and in verification of compliance with lease terms. Response to this request is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

DEC 16 2003 Serial Number

ROLLA, MISSOURI 65401

PREFERENCE RIGHT **LEASE** RENEWAL

MNES 1352

## PART I. LEASE RIGHTS GRANTED.

This ☐ Lease ☒ Lease Renewal entered into by and between the UNITED STATES OF AMERICA, through the Bureau of Land Management, hereinafter called lessor, and (Name and Address)

American Copper & Nickel Company  
922 19th Street  
Golden, Colorado 80401

JAN - 1 2004

hereinafter called lessee, is effective (date) , for a period of 10 years,

Sodium, Sulphur, Hardrock -

☒ with preferential right in the lessee to renew for successive periods of 10 years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.

Potassium, Phosphate, Gilsonite -

☐ and for so long thereafter as lessee complies with the terms and conditions of this lease which are subject to readjustment at the end of each year period, unless otherwise provided by law.

Sec. 1. This lease is issued pursuant and subject to the terms and provisions of the:

☐ Mineral Leasing Act of 1920, as amended, and supplemented, 41 Stat. 437, 30 U.S.C. 181-287, hereinafter referred to as the Act;

☐ Mineral Leasing Act for Acquired Lands, Act of August 7, 1947, 61 Stat. 913, 30 U.S.C. 351-359;

☒ Reorganization Plan No. 3 of 1946, 60 Stat. 1099 and 43 U.S.C. 1201;

☐ (Other)

to the regulations and general mining orders of the Secretary of the Interior in force on the date this lease issued.

Sec. 2. Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to explore for, drill for, mine, extract, remove, beneficiate, concentrate, or otherwise process and dispose of the copper deposits nickel

& associated minerals hereinafter referred to as "leased deposits," in, upon, or under the following described lands:

SEE ATTACHED

containing 2,610.07 acres, more or less, together with the right to construct such works, buildings, plants, structures, equipment and appliances and the right to use such on-lease rights-of-way which may be necessary and convenient in the exercise of the rights and privileges granted, subject to the conditions herein provided.

Phosphate -

☐ In accordance with Section 11 of the Act (30 U.S.C. 213), lessee may use deposits of silica, limestone, or other rock in the processing or refining of the phosphates, phosphate rock, and associated or related minerals mined from the leased lands or other lands upon payments of royalty as set forth on the attachment to this lease. (Phosphate leases only.)



In Lake County:

Township 61 North, Range 11 West of the Fourth Principal Meridian:

Section 3, Lot 2  
SW-1/4 of SW-1/4  
S-1/2 of SE-1/4

Section 5, Lots 1 and 2  
S-1/2 of NE-1/4  
Lot 6  
Lot 7  
NE-1/4 of SW-1/4  
S-1/2 of SW-1/4  
N-1/2 of SE-1/4

Section 6, Lots 13, 22, 23 and 24

Section 7, Lots 1, 2, 3, 4, 9, 10, 12, 15, 16 and 19

Section 8, Lots 2 and 6

Section 9, All except W-1/2 of NW-1/4

Section 18, Lots 2, 7, 9, 12, 13, 14, 15, 16, 17, 18  
19 and 20

Section 19, Lots 2, 3, 4, 5, 7 and 8

Township 62 North, Range 11 West of the Fourth Principal Meridian:

Section 27, SE-1/4 of SW-1/4

Section 32, Lot 4

Section 33, Lots 6 and 7

Section 34, NW-1/4

In St. Louis County:

Township 61 North, Range 12 West of the Fourth Principal Meridian:

Section 25, Lot 2  
SW-1/4 of SW-1/4

## PART II. TERMS AND CONDITIONS

Sec. 1. (a) RENTAL RATE - Lessee shall pay lessor rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate indicated below:

*Sulphur, Gilsonite -*

☐ 50 cents for the first lease year and each succeeding lease year;

*Hardrock -*

☐ \$1 for the first lease year and \$1 for each succeeding lease year;

*Phosphate -*

☐ 25 cents for the first lease year, 50 cents for the second and third lease years, and \$1 for each and every lease year thereafter;

*Potassium, Sodium -*

☐ 25 cents for the first calendar year or fraction thereof, 50 cents for the second, third, fourth, and fifth calendar years respectively, and \$1 for the sixth and each succeeding calendar year; or

*Sodium, Sulphur, Asphalt, and Hardrock Renewal Leases -*

☒ \$ 1.00 for each lease year;

(b) RENTAL CREDITS - The rental for any year will be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

Sec. 2. (a) PRODUCTION ROYALTIES - Lessee shall pay lessor a production royalty in accordance with the attached schedule. Such production royalty is due the last day of the month next following the month in which the minerals are sold or removed from the leased lands.

\*\* (b) MINIMUM ANNUAL PRODUCTION AND MINIMUM ROYALTY - (1) Lessee shall produce on an annual basis a minimum amount of copper, nickel & assoc. mins., except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. Lessor may permit suspension of operations under the lease when marketing conditions are such that the lease cannot be operated except at a loss. (2) At the request of the lessee, made prior to initiation of the lease year, the authorized officer may allow in writing the payment of a \$3.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year. Minimum royalty payments shall be credited to production royalties for that year.

Sec. 3. REDUCTION AND SUSPENSION - In accordance with Section 39 of the Mineral Leasing Act, 30 U.S.C. 209, the lessor reserves the authority to waive, suspend or reduce rental or minimum royalty, or to reduce royalty, and reserves the authority to assent to or order the suspension of this lease.

Sec. 4. BONDS - Lessee shall maintain in the proper office a lease bond in the amount of \$ 5,000.00, or in lieu thereof, an acceptable statewide or nationwide bond. The authorized officer may require an increase in this amount when additional coverage is determined appropriate.

Sec. 5. DOCUMENTS, EVIDENCE AND INSPECTION - At such times and in such form as lessor may prescribe, lessee

shall furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.

Lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of lessor, the leased premises and all surface and underground improvements, work, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.

Lessee shall either submit or provide lessor access to and copying of documents reasonably necessary to verify lessee compliance with terms and conditions of the lease.

While this lease remains in effect, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Sec. 6. DAMAGES TO PROPERTY AND CONDUCT OF OPERATIONS - Lessee shall exercise reasonable diligence, skill, and care in the operation of the property, and carry on all operations in accordance with approved methods and practices as provided in the operating regulations, having due regard for the prevention of injury to life, health or property, and of waste or damage to any water or mineral deposits.

Lessee shall not conduct exploration or operations, other than casual use, prior to receipt of necessary permits or approval of plans of operations by lessor.

Lessee shall carry on all operations in accordance with approved methods and practices as provided in the operating regulations, and the approved mining plans in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, minerals, and other resources, and to other land uses or users. Lessee shall take measures deemed necessary by lessor to accomplish the intent of this lease term. Such measures may include, but are not limited to, modification to proposed siting or design of facilities, timing of operations, and specification of interim and final reclamation procedures.

Lessor reserves to itself the right to lease, sell, or otherwise dispose of the surface or other mineral deposits in the lands and the right to continue existing uses and to authorize future uses upon or in the leased lands, including issuing leases for mineral deposits not covered hereunder or the approval of easements or rights-of-way. Lessor shall condition such uses to prevent unnecessary or unreasonable interference with rights of lessee as may be consistent with concepts of multiple use and multiple mineral development.

Sec. 7. PROTECTION OF DIVERSE INTERESTS, AND EQUAL OPPORTUNITY - Lessee shall: pay when due all taxes legally assessed and levied under the laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States; maintain a safe working environment in accordance with standard industry practices; restrict the workday to not more than 8 hours in any one day for underground workers, except in emergencies; and take measures necessary to protect the health and safety of the public. No person under the age of 16 years shall be employed in any mine below the surface. To the extent that laws of the State in which the lands are

• situated are more restrictive than the provisions in this paragraph, then the State laws apply.

Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec. 8. (a) TRANSFERS - This lease may be transferred in whole or in part to any person, association or corporation qualified to hold such lease interest.

(b) RELINQUISHMENT - The lessee may relinquish in writing at any time all rights under this lease or any portion thereof as provided in the regulations. Upon lessor's acceptance of the relinquishment, lessee shall be relieved of all future obligations under the lease or the relinquished portion thereof, whichever is applicable.

Sec. 9. DELIVERY OF PREMISES, REMOVAL OF MACHINERY, EQUIPMENT, ETC. - At such time as all or portions of this lease are returned to lessor, lessee shall deliver up to lessor the land leased, underground timbering, and such other supports and structures necessary for the preservation of the mine workings on the leased premises or deposits and place all wells in condition for suspension or abandonment. Within 180 days thereof, lessee shall remove from the premises all other structures, machinery, equipment, tools, and materials that it elects to or as required by the authorized officer. Any such structures, machinery, equipment, tools, and materials remaining on the leased lands beyond 180 days, or approved extension thereof, shall become the property of the lessor, but lessee shall either remove any or all such property or shall continue to be liable for the cost of removal and disposal in the amount actually incurred by the lessor. If the surface is owned by third parties, lessor shall waive the requirement for removal, provided the third parties do not object to such

waiver. Lessee shall, prior to the termination of bond liability or at any other time when required and in accordance with all applicable laws and regulations, reclaim all lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities on the leased lands, and reclaim access roads or trails.

Sec. 10. PROCEEDINGS IN CASE OF DEFAULT - If lessee fails to comply with applicable laws, now existing regulations, or the terms, conditions and stipulations of this lease, and the noncompliance continues for 30 days after written notice thereof, this lease shall be subject to cancellation by the lessor only by judicial proceedings. This provision shall not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver shall not prevent later cancellation for the same default occurring at any other time.

Sec. 11. HEIRS AND SUCCESSORS-IN-INTEREST - Each obligation of this lease shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. INDEMNIFICATION - Lessee shall indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under this lease.

Sec. 13. SPECIAL STATUTES - This lease is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151-1175), the Clean Air Act (42 U.S.C. 1857 et. seq.), and to all other applicable laws pertaining to exploration activities, mining operations and reclamation.

Sec. 14. SPECIAL STIPULATIONS -

\* The terms and conditions of the production royalties remains as stated in the attached original lease agreement.

\*\* The minimum annual production and minimum royalty is \$10.00 per acre or a fraction thereof as stated in the attached original lease agreement.

Sec. 14. SPECIAL STIPULATIONS - (Cont.)

THE UNITED STATES OF AMERICA

AMERICAN COPPER & NICKEL COMPANY INC.  
Company or Lessee Name

DJ Rush  
(Signature of Lessee)

PRESIDENT  
(Title)

NOVEMBER 26, 2003  
(Date)

By

Sharon Brown  
(Signing Officer)

Authorized Officer  
(Title)

DEC 05 2003  
(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

NOTICE

The Privacy Act of 1974 and the regulations in 43 CFR 2.48(d) provides that you be furnished the following information in connection with information required under the terms of this lease.

AUTHORITY: 30 U.S.C. 181 et seq.; 43 CFR 3500.

PRINCIPAL PURPOSE: The information will be used to verify your compliance with the lease terms and in calculating royalty payments.

ROUTINE USES: (1) Evaluation of the effects of the operations on the environment. (2) Statistical reports to Congress. (3)(4) and (5) Information from the record and/or the record may be released or transferred to appropriate Federal, State or local agencies in allocating mineral revenue, for investigations of energy programs; and when relevant to civil, criminal or regulatory investigations or prosecutions, as well as routine regulatory responsibility.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of this information is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected for use in calculating royalty payments and in verification of compliance with lease terms. Response to this request is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

DEC 16 2003 Serial Number

ROLLA, MISSOURI 65401

PREFERENCE RIGHT LEASE RENEWAL

MNES 1353

## PART I. LEASE RIGHTS GRANTED.

This ☐ Lease ☒ Lease Renewal entered into by and between the UNITED STATES OF AMERICA, through the Bureau of Land Management, hereinafter called lessor, and (Name and Address)

American Copper & Nickel Company  
922 19th Street

Golden, Colorado 80401

hereinafter called lessee, is effective (date)

JAN - 1 2004

, for a period of 10 years,

Sodium, Sulphur, Hardrock -

☒ with preferential right in the lessee to renew for successive periods of 10 years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.

Potassium, Phosphate, Gilsonite -

☐ and for so long thereafter as lessee complies with the terms and conditions of this lease which are subject to readjustment at the end of each year period, unless otherwise provided by law.

Sec. 1. This lease is issued pursuant and subject to the terms and provisions of the:

☐ Mineral Leasing Act of 1920, as amended, and supplemented, 41 Stat. 437, 30 U.S.C. 181-287, hereinafter referred to as the Act;

☐ Mineral Leasing Act for Acquired Lands, Act of August 7, 1947, 61 Stat. 913, 30 U.S.C. 351-359;

☒ Reorganization Plan No. 3 of 1946, 60 Stat. 1099 and 43 U.S.C. 1201;

☐ (Other)

; and

to the regulations and general mining orders of the Secretary of the Interior in force on the date this lease issued.

Sec. 2. Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to explore for, drill for, mine, extract, remove, beneficiate, concentrate, or otherwise process and dispose of the copper deposits nickel & associated minerals hereinafter referred to as "leased deposits," in, upon, or under the following described lands:

SEE ATTACHED

containing 2,254.71 acres, more or less, together with the right to construct such works, buildings, plants, structures, equipment and appliances and the right to use such on-lease rights-of-way which may be necessary and convenient in the exercise of the rights and privileges granted, subject to the conditions herein provided.

Phosphate -

☐ In accordance with Section 11 of the Act (30 U.S.C. 213), lessee may use deposits of silica, limestone, or other rock in the processing or refining of the phosphates, phosphate rock, and associated or related minerals mined from the leased lands or other lands upon payments of royalty as set forth on the attachment to this lease. (Phosphate leases only.)

In Lake County:

Township 62 North, Range 10 West of the Fourth Principal Meridian:

Section 19, All

Section 20, SW-1/4

Section 29, N-1/2

Section 30, N-1/2

Lot 3 (NW-1/4 of SW-1/4)

Township 62 North, Range 11 West of the Fourth Principal Meridian:

Section 24, Lot 7

SE-1/4 of SW-1/4

S-1/2 of SE-1/4

Section 25, N-1/2

W-1/2 of SW-1/4 [undivided one-half interest

NE-1/4 of SE-1/4

Section 26, S-1/2 of NE-1/4

NE-1/4 of SW-1/4

E-1/2 of SE-1/4 [undivided one-half interest



## PART II. TERMS AND CONDITIONS

Sec. 1. (a) RENTAL RATE - Lessee shall pay lessor rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate indicated below:

*Sulphur, Gilsonite -*

☐ 50 cents for the first lease year and each succeeding lease year;

*Hardrock -*

☐ \$1 for the first lease year and \$1 for each succeeding lease year;

*Phosphate -*

☐ 25 cents for the first lease year, 50 cents for the second and third lease years, and \$1 for each and every lease year thereafter;

*Potassium, Sodium -*

☐ 25 cents for the first calendar year or fraction thereof, 50 cents for the second, third, fourth, and fifth calendar years respectively, and \$1 for the sixth and each succeeding calendar year; or

*Sodium, Sulphur, Asphalt, and Hardrock Renewal Leases -*

☒ \$ 1.00 for each lease year;

(b) RENTAL CREDITS - The rental for any year will be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

Sec. 2. (a) PRODUCTION ROYALTIES - Lessee shall pay lessor a production royalty in accordance with the attached schedule. Such production royalty is due the last day of the month next following the month in which the minerals are sold or removed from the leased lands.

\* (b) MINIMUM ANNUAL PRODUCTION AND MINIMUM ROYALTY - (1) Lessee shall produce on an annual basis a minimum amount of copper, nickel, & assoc. mins., except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. Lessor may permit suspension of operations under the lease when marketing conditions are such that the lease cannot be operated except at a loss. (2) At the request of the lessee, made prior to initiation of the lease year, the authorized officer may allow in writing the payment of a \$3.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year. Minimum royalty payments shall be credited to production royalties for that year.

Sec. 3. REDUCTION AND SUSPENSION - In accordance with Section 39 of the Mineral Leasing Act, 30 U.S.C. 209, the lessor reserves the authority to waive, suspend or reduce rental or minimum royalty, or to reduce royalty, and reserves the authority to assent to or order the suspension of this lease.

Sec. 4. BONDS - Lessee shall maintain in the proper office a lease bond in the amount of \$ 5,000, or in lieu thereof, an acceptable statewide or nationwide bond. The authorized officer may require an increase in this amount when additional coverage is determined appropriate.

Sec. 5. DOCUMENTS, EVIDENCE AND INSPECTION - At such times and in such form as lessor may prescribe, lessee

shall furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.

Lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of lessor, the leased premises and all surface and underground improvements, work, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.

Lessee shall either submit or provide lessor access to and copying of documents reasonably necessary to verify lessee compliance with terms and conditions of the lease.

While this lease remains in effect, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Sec. 6. DAMAGES TO PROPERTY AND CONDUCT OF OPERATIONS - Lessee shall exercise reasonable diligence, skill, and care in the operation of the property, and carry on all operations in accordance with approved methods and practices as provided in the operating regulations, having due regard for the prevention of injury to life, health or property, and of waste or damage to any water or mineral deposits.

Lessee shall not conduct exploration or operations, other than casual use, prior to receipt of necessary permits or approval of plans of operations by lessor.

Lessee shall carry on all operations in accordance with approved methods and practices as provided in the operating regulations, and the approved mining plans in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, minerals, and other resources, and to other land uses or users. Lessee shall take measures deemed necessary by lessor to accomplish the intent of this lease term. Such measures may include, but are not limited to, modification to proposed siting or design of facilities, timing of operations, and specification of interim and final reclamation procedures.

Lessor reserves to itself the right to lease, sell, or otherwise dispose of the surface or other mineral deposits in the lands and the right to continue existing uses and to authorize future uses upon or in the leased lands, including issuing leases for mineral deposits not covered hereunder or the approval of easements or rights-of-way. Lessor shall condition such uses to prevent unnecessary or unreasonable interference with rights of lessee as may be consistent with concepts of multiple use and multiple mineral development.

Sec. 7. PROTECTION OF DIVERSE INTERESTS, AND EQUAL OPPORTUNITY - Lessee shall: pay when due all taxes legally assessed and levied under the laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States; maintain a safe working environment in accordance with standard industry practices; restrict the workday to not more than 8 hours in any one day for underground workers, except in emergencies; and take measures necessary to protect the health and safety of the public. No person under the age of 16 years shall be employed in any mine below the surface. To the extent that laws of the State in which the lands are

situated are more restrictive than the provisions in this paragraph, then the State laws apply.

Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec. 8. (a) TRANSFERS - This lease may be transferred in whole or in part to any person, association or corporation qualified to hold such lease interest.

(b) RELINQUISHMENT - The lessee may relinquish in writing at any time all rights under this lease or any portion thereof as provided in the regulations. Upon lessor's acceptance of the relinquishment, lessee shall be relieved of all future obligations under the lease or the relinquished portion thereof, whichever is applicable.

Sec. 9. DELIVERY OF PREMISES, REMOVAL OF MACHINERY, EQUIPMENT, ETC. - At such time as all or portions of this lease are returned to lessor, lessee shall deliver up to lessor the land leased, underground timbering, and such other supports and structures necessary for the preservation of the mine workings on the leased premises or deposits and place all wells in condition for suspension or abandonment. Within 180 days thereof, lessee shall remove from the premises all other structures, machinery, equipment, tools, and materials that it elects to or as required by the authorized officer. Any such structures, machinery, equipment, tools, and materials remaining on the leased lands beyond 180 days, or approved extension thereof, shall become the property of the lessor, but lessee shall either remove any or all such property or shall continue to be liable for the cost of removal and disposal in the amount actually incurred by the lessor. If the surface is owned by third parties, lessor shall waive the requirement for removal, provided the third parties do not object to such

waiver. Lessee shall, prior to the termination of bond liability or at any other time when required and in accordance with all applicable laws and regulations, reclaim all lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities on the leased lands, and reclaim access roads or trails.

Sec. 10. PROCEEDINGS IN CASE OF DEFAULT - If lessee fails to comply with applicable laws, now existing regulations, or the terms, conditions and stipulations of this lease, and the noncompliance continues for 30 days after written notice thereof, this lease shall be subject to cancellation by the lessor only by judicial proceedings. This provision shall not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver shall not prevent later cancellation for the same default occurring at any other time.

Sec. 11. HEIRS AND SUCCESSORS-IN-INTEREST - Each obligation of this lease shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. INDEMNIFICATION - Lessee shall indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under this lease.

Sec. 13. SPECIAL STATUTES - This lease is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151-1175), the Clean Air Act (42 U.S.C. 1857 et. seq.), and to all other applicable laws pertaining to exploration activities, mining operations and reclamation.

Sec. 14. SPECIAL STIPULATIONS -

\* The terms and conditions of the production royalties remains as stated in the attached original lease agreement.

\*\* The minimum annual production and minimum royalty is \$10.00 per acre or a fraction thereof as stated in the attached original lease agreement.



Sec. 14. SPECIAL STIPULATIONS - (Cont.)

THE UNITED STATES OF AMERICA

AMERICAN COPPER & NICKEL COMPANY INC.  
Company or Lessee Name

DJ Rusel  
(Signature of Lessee)

PRESIDENT  
(Title)

NOVEMBER 26, 2003  
(Date)

By

Sharon Brown  
(Signing Officer)

Authorized Officer  
(Title)

DEC 05 2003  
(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

NOTICE

The Privacy Act of 1974 and the regulations in 43 CFR 2.48(d) provides that you be furnished the following information in connection with information required under the terms of this lease.  
AUTHORITY: 30 U.S.C. 181 et seq.; 43 CFR 3500.

PRINCIPAL PURPOSE: The information will be used to verify your compliance with the lease terms and in calculating royalty payments.

ROUTINE USES: (1) Evaluation of the effects of the operations on the environment. (2) Statistical reports to Congress. (3)(4) and (5) Information from the record and/or the record may be released or transferred to appropriate Federal, State or local agencies in allocating mineral revenue, for investigations of energy programs; and when relevant to civil, criminal or regulatory investigations or prosecutions, as well as routine regulatory responsibility.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of this information is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected for use in calculating royalty payments and in verification of compliance with lease terms. Response to this request is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

(b) (5)



**Created by:**[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)

Total Messages in label:97 (20 conversations)

Created: 08-07-2018 at 11:56 AM

# Conversation Contents

## Standard Lease Form in 1966

### Attachments:

/14. Standard Lease Form in 1966/2.1 Doe Run lease on Form 3220-1 (Dec 1966).pdf

## "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

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**From:** "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>  
**Sent:** Mon Nov 06 2017 09:06:31 GMT-0700 (MST)  
**To:** Briana Collier <briana.collier@sol.doi.gov>  
**CC:** Karen Hawbecker <karen.hawbecker@sol.doi.gov>, Richard McNeer <richard.mcneer@sol.doi.gov>  
**Subject:** Standard Lease Form in 1966

Briana: In one of the comments in the draft m-opinion, you mention that you have standard form 3220-1 (Dec. 1966). I would like to see it if you have an electronic copy.

## "Collier, Briana" <briana.collier@sol.doi.gov>

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**From:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**Sent:** Mon Nov 06 2017 09:23:15 GMT-0700 (MST)  
**To:** "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>  
**CC:** Karen Hawbecker <karen.hawbecker@sol.doi.gov>, Richard McNeer <richard.mcneer@sol.doi.gov>  
**Subject:** Re: Standard Lease Form in 1966  
**Attachments:** Doe Run lease on Form 3220-1 (Dec 1966).pdf

Hi Jack, BLM Eastern States Office provided the below Doe Run lead lease as an example of a lease on the standard form 3220-1 (Dec. 1966), contemporaneous to the original Twin Metals leases, for the development of non-coal or oil shale solid minerals on acquired lands.

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

Phone: (202) 208-4853

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On Mon, Nov 6, 2017 at 9:06 AM, Haugrud, Kevin <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)> wrote:  
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**From:** "Haugrud, Kevin" <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)>  
**Sent:** Mon Nov 06 2017 09:37:21 GMT-0700 (MST)  
**To:** "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
**CC:** Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>, Richard McNeer <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>  
**Subject:** Re: Standard Lease Form in 1966

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**From:** "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
**Sent:** Mon Nov 06 2017 09:51:30 GMT-0700 (MST)  
**To:** "Haugrud, Kevin" <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)>  
**CC:** Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>, Richard McNeer <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>  
**Subject:** Re: Standard Lease Form in 1966

(b) (5)

We can if you'd like.

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**From:** "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>  
**Sent:** Mon Nov 06 2017 10:12:00 GMT-0700 (MST)  
**To:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**CC:** Karen Hawbecker <karen.hawbecker@sol.doi.gov>, Richard McNeer <richard.mcneer@sol.doi.gov>  
**Subject:** Re: Standard Lease Form in 1966

(b) (5)

On Mon, Nov 6, 2017 at 11:51 AM, Collier, Briana <briana.collier@sol.doi.gov> wrote:

(b) (5)

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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

FORM APPROVED  
BUDGET BUREAU NO. 42-R934

RENEWAL - ACQUIRED LANDS MINERAL LEASE

Land Office Serial Number  
BIM-A-041128

State  
Missouri

*Sherrill* 4/4/69

This lease entered into on February 1, 1969

between the United States of America,

as lessor, through the Bureau of Land Management, and St. Joseph Lead Company  
250 Park Avenue  
New York, New York 10017

, as lessee,  
pursuant to the authority set out in, and subject to, the regulations 43 CFR 3220-3227, and to all regulations of the Secretary of the Interior now or hereafter in force when not inconsistent with any provisions herein.

WITNESSETH:

Sec. 1. (a) *Rights of lessee.* In consideration of the rents and royalties to be paid and conditions and covenants to be observed as herein set forth the lessor grants to the lessee, subject to all privileges and uses heretofore duly authorized and prior valid claims, the exclusive right to mine, remove, and dispose of all the galena & sphalerite and associated minerals and any other minerals except oil, gas, oil shale, coal, phosphate, potassium, sodium, or sulphur in, upon, or under the following-described acquired lands in the United States; ~~in the State of~~

T. 35 N., R. 2 W., 5th P. M., Missouri,

Sec. 13: SE $\frac{1}{4}$ SE $\frac{1}{4}$ ,  
All of SW $\frac{1}{4}$ SE $\frac{1}{4}$  east of Crawford County Line;

Sec. 23: N $\frac{1}{2}$ N $\frac{1}{2}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ ;

Sec. 24: SW $\frac{1}{4}$ NW $\frac{1}{4}$ ;

Sec. 25: SW $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ ;

Sec. 26: SE $\frac{1}{4}$ NE $\frac{1}{4}$ ,

containing 592.00 acres, more or less, together with the right to construct and maintain thereon such structures and other facilities as may be necessary for the mining, preparation, and removal of said minerals for a period of 10 years with a right in the lessee to renew the same for successive periods of like duration in accordance with regulation 43 CFR 3221.4(f).

(b) *Authorized Agency Representative.* The United States agency having administrative control over the surface use of the land is the Forest Service, Department of Agriculture and its authorized agency representative to whom inquiries should be addressed is Forest Supervisor, U. S. Forest Service, of Rolla, Missouri 65401.

Sec. 2. In consideration of the foregoing, the lessee agrees:

(a) *Operation and production.* To carry on operations under this lease with reasonable diligence and to begin operations within - months and to continue production thereafter unless operations are interrupted by strikes, the elements, or casualties not attributable to the lessee. The lessor may grant reasonable extensions of time for the commencement of production and may authorize suspensions of operations and production in accordance with regulation 43 CFR 3222.6-2 for reasonable periods of time in the interest of conservation or when the lease cannot be successfully operated at a profit, or for other reasons when such action does not adversely affect the interest of the United States.

(b) *Royalty.* To pay the lessor within 30 days after the end of each period prescribed in subsection (f) of this section a royalty of \* percent of the gross value of the minerals mined hereunder at the point of shipment to market, such point of shipment to be the mine or preparation plant, as the case may be. The lessee agrees that the Secretary of the Interior, for the purpose of determining the royalties due hereunder, may establish reasonable minimum values for the minerals mined, due consideration being given to the highest price paid for a part or a majority of the production of minerals of like quality produced from the same general area, the price received by the lessee, posted prices, and other relevant matters. A royalty rate will be established for each mineral or group of minerals following discovery and prior to mining.

(c) *Rentals.* To pay to the lessor annually in advance, beginning with the date of this lease, rental of \$1.00 for each acre, or fraction thereof,  
\* See attached royalty stipulation.

for each lease year until production commences, the rental payment for the year in which production commences to be credited on royalties that accrue during that lease year.

(d) *Minimum royalty.* If there is no production or if royalties under subsection (b) of this section total less than \$592.00 in any lease year, to pay the lessor a sum equal to the difference between such royalties and \$ 592.00, such minimum royalty obligation to become effective the first lease year commencing after production begins, and to be payable within 30 days following the end of the lease year for which due. Lessor may, in its discretion, suspend the minimum royalty requirement when production is interrupted or suspended as provided in subsection (a) in accordance with regulation 43 CFR 3222.6-2.

(e) *Bond.* To furnish and maintain a bond in the sum of \$5000.00 conditioned upon compliance with the terms and conditions of this lease, and to increase the amount thereof or furnish such other bond as may be required.

(f) *Statement.* To furnish for each month or such other period as may be designated by the Regional Mining Supervisor of the Geological Survey statements in detail, in such form as may be prescribed by him, of the amount and value of output from the leasehold during such period for use in determining royalties, such statements to be furnished within 30 days from the close of the month or period so designated. Falsification of such statements shall be grounds for cancellation of the lease.

(g) *Inspection.* To permit at all reasonable times: (1) inspection by any authorized officer of the leased premises and all surface and underground improvements,

*D. P. ... 4/7/69 - AL*



works, machinery, equipment, and all books and records pertaining to operations and surveys or investigations under this lease; and (2) the lessor to make copies of and extracts from any or all books and records pertaining to operations under this lease.

(h) *Maps--Reports.* To furnish, in duplicate, to the Regional Mining Supervisor, at such times as he may require, a plat in the manner and form prescribed by him showing prospecting and development work and improvements on the lease land and other related information, with a report as to all buildings, structures and other works or equipment, situated elsewhere and owned or operated in conjunction with, or as a part of the operations conducted hereunder.

(i) To comply with all regulations of the Secretary of the Interior or the Secretary of Agriculture as to the lands herein described which are under his jurisdiction; and to conduct operations in an orderly manner and in accordance with regulations 30 CFR, Part 231 and the applicable Federal and State laws; and to exercise reasonable diligence, skill, and care in the operation of the property; and to carry on all operations in accordance with approved methods and practices, having due regard for the prevention of damage to mineral deposits, water horizons and property, injury to life and health, and economic waste.

(j) *Taxes.* To pay when due all taxes lawfully assessed and levied under the laws of the State or the United States upon improvements, output of mines, and other rights, property, and assets of the lessee.

(k) *Deliver premises.* To deliver up to the lessor in good order and condition and subject to the provisions in Section 9 hereof on the termination of this lease as a result of forfeiture thereof the lands covered thereby, including all underground timbering and such other supports and structures as are necessary for the preservation of the mine.

(l) *Assignment.* Not to assign this lease, or any interest therein, whether by direct assignment, operating agreement, working or royalty interest, or otherwise, nor sublet any portion of the leased premises, except with the approval, in writing, of the lessor. All such assignments or subleases must be submitted in triplicate within 90 days from the date of execution and must contain all of the terms and conditions agreed upon by the parties thereto. Not to create overriding royalties in excess of those authorized by regulation 43 CFR 3226.1.

An assignment of all or part of the record title to a portion of the acreage in the lease shall separate the lease into separate leaseholds and the terms hereof shall apply separately to the segregated portions. Advance annual rental payments, if previously terminated, shall be resumed as to an undeveloped segregated portion on the next anniversary date of the lease; the minimum royalty payment herein specified shall apply separately to the segregated portions and the time allowed within which to commence operations on an undeveloped segregated portion shall be such reasonable period as shall be prescribed by the lessor at the time the assignment is approved.

(m) *Equal Opportunity clause.* During the performance of this contract the lessee agrees as follows:

(1) The lessee will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The lessee will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The lessee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contract-

ing officer setting forth the provisions of this nondiscrimination clause.

(2) The lessee will, in all solicitations or advertisements for employees placed by or on behalf of the lessee, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

(3) The lessee will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the lessee's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The lessee will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the lessee's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the lessee may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The lessee will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The lessee will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* That in the event the lessee becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the lessee may request the United States to enter into such litigation to protect the interests of the United States.

(n) *Payments.* Rentals under this lease shall be paid to the Manager of the proper Land Office, *except* that when this lease becomes productive the rentals and royalties shall be paid to the Regional Mining Supervisor of the Geological Survey, with whom all reports concerning operations under the lease shall be filed. All remittances to the Bureau of Land Management shall be made payable to the Bureau of Land Management, those to the Geological Survey shall be made payable to the United States Geological Survey. The failure to pay rental on or before the anniversary date shall automatically terminate the lease. However, if the time for payment falls on a day in which the proper office to receive payment is closed, payment shall be deemed timely if made on the next official working day.

### Sec. 3. Lessee further agrees:

(a) *Protection of property.* To conduct all operations hereunder with due regard for good land manage-



ment, not to cut or destroy timber without previous permission from the authorized officer and to pay for such timber at rates prescribed by him; to avoid damage to improvements, timber, crops, or other cover; unless otherwise authorized by the authorized officer, not drill any well, carry on operations, make excavations, construct tunnels, drill, or otherwise disturb the surface of the lands within 200 feet of any building thereon and whenever required, in writing, by the authorized officer, and upon any partial or total relinquishment, cancellation, or termination of this lease as to that portion of the land to which his rights have terminated, to fence or fill all sump holes, ditches and other excavations, remove or cover all debris, and so far as reasonably possible, reseed or otherwise restore the surface of the lands to their former condition, or to a productive or other condition satisfactory to the authorized officer, including the removal of structures as and if required, and when required by such officer to bury all pipelines below plow depth.

(b) *Fire precautions.* To do all in his power to prevent and suppress fires on the land and vicinity, and to require his employees, contractors, and subcontractors to do likewise. Unless prevented by circumstances over which he has no control, to place his employees, contractors, and subcontractors at the disposal of the authorized officer for the purpose of fighting fires on or originating on the land or on adjacent areas or caused by the negligence of the lessee or his employees, contractors, and subcontractors, with the understanding that payment for such services shall be made at rates to be determined by such authorized officer but not less than the current rates of pay prevailing in the vicinity for services of a similar character: *Provided, that* if the lessee, his employees, contractors, or subcontractors, or employees of any of them, caused or could have prevented the origin or spread of said fire or fires, no payment shall be made for services so rendered. During periods of serious fire danger, as may be specified by the authorized officer, the lessee shall prohibit smoking and the building of camp and lunch fires by his employees, contractors, and subcontractors, within the leased area *except* at established camps, and shall enforce this prohibition by all means within his power: *Provided, that* the authorized officer may designate safe places where, after all inflammable material has been cleared away, campfires may be built for the purpose of heating lunches and where, at the option of the lessee, smoking may be permitted; *Provided further, that* when in the judgment of the authorized officer the fire danger is of such serious nature that fires may result from the operation, the lessee will close down operations upon request of such officer for the period of such emergency. The lessee will not burn rubbish, trash, or other inflammable materials *except* with the consent of the authorized officer and shall not use explosives during the fire season *except* as authorized to do so or on areas approved by such officer. The lessee shall build or construct such fire lines or do such clearing on the land as the authorized officer decides is essential for forest, brush, and grass fire prevention which is or may be necessitated by the exercise of the privileges authorized by this lease, and shall maintain such fire tools at his headquarters or at the appropriate location on the land as are deemed necessary by such officer.

(c) *Approval of construction.* Not to clear or use the land for development or for construction purposes of any kind until a plan of construction and development therefor has been approved by the authorized officer and that in the location, design, construction, and maintenance of all authorized works, camps, buildings, plants, waterways, roads, telegraph or telephone lines, pipelines, reservoirs, tanks, pumping stations, or other structures or clearances, lessee shall do all things reasonably necessary to prevent or reduce scarring and erosion of the land, pollution of the water resources and

any damage to the watershed.

(d) *Damage to property.* To pay the lessor or its tenant, as the case may be, for any and all damage to or destruction of property caused by the lessee's operations hereunder; to save and hold the lessor or the surface owner or their tenants harmless from all damage or claims for damage to persons or property resulting from the lessee's operations under this lease; and where the surface of the leased land is owned by other than the lessor, to pay such owner, or his tenants, as the case may be, for damage or injury to livestock, crops, trees, pipelines, buildings, and other improvements on the leased lands. That where construction, operation, or maintenance of any of the facilities on or connected with this lease causes damage to the watershed or pollution of the water resources, to repair such damage and take such corrective measures as are required by the authorized officer, including the reseedling or other restoration of the vegetative cover.

(e) *Protection of livestock; access to leased lands.* To install and maintain cattle guards to prevent the passage of livestock in any openings made in fences by the lessee, his contractors, or subcontractors to provide access to the lands covered by this lease for automotive and other equipment.

(f) *Authorized Officer.* All inquiries relating to this section should be addressed to the authorized officer named in Section 1(b) of this lease.

Sec. 4. *Lessee—agent.* Prior to the beginning of operations, the lessee shall appoint and maintain at all times during the term of this lease a local agent upon whom may be served written orders or notices respecting matters contained in this lease, and shall inform the authorized officer and the Regional Mining Supervisor of the United States Geological Survey, in writing, of the name and address of such agent. If a substitute agent is appointed, the lessee shall immediately so inform the said officers.

Sec. 5. The lessor expressly reserves:

(a) *Rights reserved.* The right to permit for joint or several use easements or rights-of-way, including easements in tunnels upon, through, or in the land leased, occupied, or used as may be necessary or appropriate to the working of the same or other lands, and the preparation and shipment of the products thereof by or under authority of the Government, its lessees or permittees, and for other public purposes.

(b) *Monopoly and fair prices.* Full power and authority to promulgate and enforce all orders necessary to insure the sale of the production of the leased lands to the United States and to the public at reasonable prices, to protect the interest of the United States, to prevent monopoly, and to safeguard the public welfare.

(c) *Renewal terms.* The right to reasonably readjust and fix royalties payable hereunder at the end of the primary term of this lease and thereafter at the end of each successive renewal thereof unless otherwise provided by law at the time of the expiration of any such period, and to readjust other terms and conditions of the lease, including the revision of or imposition of stipulations for the protection of the surface of the land as may be required by the agency having jurisdiction thereover.

(d) *Waiver of conditions.* The right to waive any breach of the covenants and conditions contained herein, but any such waiver shall extend only to the particular breach so waived and shall not limit the rights of the lessor with respect to any future breach; nor shall the waiver of a particular cause of forfeiture prevent cancellation of this lease for any other cause, or for the same cause occurring at another time.

Sec. 6. It is mutually agreed:

(a) *Mining methods.* That this lease does not authorize the mining or removal of the mineral deposits by stripping, rim cutting, or open pit methods without

the prior written approval of the authorized officer and on such conditions as he may prescribe.

(b) *Reduction or smelting of ores.* That the reduction or smelting of ores on the leased land is expressly prohibited in the absence of an agreement between the lessee and the authorized officer authorizing such use of the surface of the land and providing for the necessary protection of life and property. Such agreement shall contain all of the terms and conditions under which the reduction or smelting of ores may be carried on and any violation of that agreement shall be considered a violation of the terms of this lease for the purpose of Section 9.

(c) *Uses and disposition of surface.* That the leased land shall be subject at all times to any other lawful uses or sale by the United States, its lessees, permittees, licensees, and assigns; *provided that* such uses or sale shall not prevent, obstruct, or unduly interfere with any privilege granted under this lease: *Provided, that* the lessee shall recognize existing uses and commitments in the form of grazing, timber cutting, and special use permits, water developments, ditch, road, trail, pipeline, telephone and telegraph lines, fences, rights-of-way, and other similar improvements, and to conduct his operations so as to interfere as little as possible with the rights and privileges granted by these permits or with other existing uses.

(d) *Granting leases for other minerals.* That the granting of this lease will not preclude the issuance of other leases of the same land for the purpose of mining and extracting oil, gas, oil shale, coal, phosphate, potassium, sodium, and sulphur.

Sec. 7. *Relinquishment of lease.* The lessee may surrender this lease or any legal subdivision thereof. If the lands are not described by legal subdivision, a partial relinquishment must describe definitely the lands surrendered and give the exact area thereof. A relinquishment must be filed in *triplicate* in the proper Land Office. Upon its acceptance, it will be effective as of the date it filed, subject to the continued obligation of the lessee and his surety to make payment of all accrued rentals and royalties, and to provide for the preservation of any mines or productive works or permanent improvements on the lands in accordance with the regulations and terms of the lease, and for the faithful compliance of all the terms of the lease.

Sec. 8. *Removal of equipment, etc., on termination of lease.* On termination of this lease, by surrender, forfeiture, or otherwise, the lessee shall have the privilege

Sec. 12. *Special stipulations.* (Attached)

at any time within a period of 90 days thereafter of removing from the premises all machinery, equipment, tools, and materials, other than underground timbering placed by the lessee in or on the leased lands, which are not necessary for the preservation of the mine. Any materials, tools, appliances, machinery, structures, and equipment, subject to removal as above provided, which are allowed to remain on the leased land shall become the property of the lessor on expiration of the 90-day period or such extension thereof as may be granted by the lessor, but the lessee shall remove any or all of such property when so directed by the lessor.

Sec. 9. *Proceedings in case of default.* If the lessee does not comply with the applicable regulations made a part hereof or the terms of this lease and such default continues for a period of 30 days after service of written notice thereof by the lessor, the lease may be cancelled by the Bureau of Land Management. Furthermore, if the lessee fails to take prompt and necessary steps to prevent loss or damage to the mine, property, or premises, or danger to the employees, the lessor may enter on the premises and take such measures as may be deemed necessary to prevent such loss or damage, or to correct the dangerous or unsafe condition of the mine or works thereof, which shall be at the expense of the lessee, but the lessee shall not be held responsible for delays or casualties occasioned by causes beyond the lessee's control.

Sec. 10. *Heirs and successors-in-interest.* Each obligation hereunder shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 11. *Unlawful interest.* It is also further agreed that no Member of, or Delegate to, Congress, or Resident Commissioner, after his election or appointment, or either before or after he has qualified and during his continuance in office, and that no officer, agent, or employee of the Department of the Interior, *except* as provided in 43 CFR 7.4(a)(1), shall be admitted to any share or part in this lease or derive any benefit that may arise therefrom; and the provisions of Section 3741 of the Revised Statutes of the United States, (41 U.S.C., Sec 11) as amended, and Sections 431, 432, and 433, Title 18 U.S.C., relating to contracts, enter into and form a part of this lease so far as the same may be applicable.

SIGNATURE(S) OF LESSEE(S)

ST. JOSEPH LEAD COMPANY

By *D. Broward Craig*

Vice President and Secretary

THE UNITED STATES OF AMERICA

By *Joseph P. Hagan*  
(Signing Officer)

Assistant Manager

(Title)

(Date)



U. S. Forest Service

Serial No. BLMA-041128

Clark

National Forest

Applicant St. Joseph Lead Company

SPECIAL STIPULATIONS

The ~~(operator)~~ (lessee) is notified and agrees:

That any and all operations authorized by this (lease) ~~(operator)~~ shall be done in accordance with a plan which must be submitted in triplicate and approved in writing by the District Ranger at Potosi & S. Les, Missouri, 654 & 65569 before such operations are begun. The operating plan will contain such provisions as the District Ranger may reasonably determine are needed to maintain proper administration of the lands and surface resources. Where appropriate, depending upon the location and type of operation, the District Ranger may require the plan to contain provisions concerning the following matters:

1. The location and extent of areas to be occupied during operations.
2. The methods to be used in the operations.
3. The size and type of equipment to be used in the operations.
4. The capacity, character, standards of construction and size of all structures and facilities to be built.
5. The location and size of areas upon which vegetation will be destroyed or soil will be laid bare.
6. The steps which will be taken to prevent and control soil erosion.
7. The steps which will be taken to prevent water pollution.
8. The character, amount, and time of use of explosives or fire, including safety precautions which will be taken during their use.
9. The program proposed for rehabilitation and revegetation of disturbed lands.

If operations require departures from or additions to the approved plan, or amendments will be submitted in triplicate, with statements of reasons for changes or additions, to the District Ranger for approval. Any operations conducted in advance of approval of an original, revised, or amended operating plan, or which are not in accord with an approved plan, constitute violations of the terms of this (lease) ~~(operator)~~.

The lessee should be notified of powerlines in the SE $\frac{1}{4}$ SE $\frac{1}{4}$  Section 13, and SW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$  Section 25, T35N, R2W, which are under special use permits

RECEIVED  
SILVER SPRING, MO.  
1969 APR - 1 AM 10:00  
BUREAU OF LAND MANAGEMENT  
EASTERN STATES OFFICE

Protection of the surface, natural resources, and improvements:

The lessee agrees to take such reasonable steps as may be needed to prevent operations from unnecessarily: (1) causing or contributing to soil erosion or damaging any forage and timber growth thereon, or on Federal and non-Federal lands in the vicinity; (2) polluting water; (3) damaging crops, including forage, timber, or improvements of a surface owner; or (4) damaging improvements whether owned by the United States or by its permittees or lessees; and upon any partial or total relinquishment or the cancellation or expiration of this lease, or at any other time prior thereto when required and to the extent deemed necessary by the lessor, to fill any stump holes, ditches, and other excavations, remove or cover all debris, and, so far as reasonably possible, restore the surface of the leased land and access roads to their former condition, including the removal of structures as and if required. The lessor may prescribe the steps to be taken and restoration to be made, with respect to lands of the United States and improvements thereon.

(b) (5)



**Created by:**[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)

Total Messages in label:97 (20 conversations)

Created: 08-07-2018 at 11:56 AM

# Conversation Contents

## Twin Metals M-Opinion reversal draft

### Attachments:

/15. Twin Metals M-Opinion reversal draft/1.1 2017.10.27 draft M-Op reversal.docx  
/15. Twin Metals M-Opinion reversal draft/2.1 2017.10.27 draft M-Op reversal rhm.docx  
/15. Twin Metals M-Opinion reversal draft/3.1 2017.10.27 draft M-Op reversal rhm+bwc.docx

**"Collier, Briana" <briana.collier@sol.doi.gov>**

---

**From:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**Sent:** Fri Oct 27 2017 16:29:41 GMT-0600 (MDT)  
**To:** Karen Hawbecker <karen.hawbecker@sol.doi.gov>, Richard McNeer <richard.mcneer@sol.doi.gov>  
**CC:** Roy Fuller <roy.fuller@sol.doi.gov>, Ryan Sklar <ryan.sklar@sol.doi.gov>  
**Subject:** Twin Metals M-Opinion reversal draft  
**Attachments:** 2017.10.27 draft M-Op reversal.docx

Karen, Richard:

Attached below is a first draft of the reversal of M-37036. As a reminder, Jack wanted to try to get this ready in 4-6 weeks from when we met with Twin Metals on October 12th. Also as a reminder, oral arguments on the motion to dismiss are scheduled for Nov. 14th, and DOJ wants to do a moot on Nov. 6th or 7th.

Please let us know how you would like to proceed with review and revision given the limited timeframe we have available to get this memo into final shape.

We should also discuss how we want to handle the moot when we meet next week.

Thanks very much,  
Briana

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

Phone: (202) 208-4853

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## "McNeer, Richard" <richard.mcneer@sol.doi.gov>

---

**From:** "McNeer, Richard" <richard.mcneer@sol.doi.gov>  
**Sent:** Mon Oct 30 2017 13:26:54 GMT-0600 (MDT)  
**To:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**CC:** Karen Hawbecker <karen.hawbecker@sol.doi.gov>, Roy Fuller <roy.fuller@sol.doi.gov>, Ryan Sklar <ryan.sklar@sol.doi.gov>  
**Subject:** Re: Twin Metals M-Opinion reversal draft  
**Attachments:** 2017.10.27 draft M-Op reversal rhm.docx

Briana:

Here are some suggested edits and responses to some of your comments.

Good job with it.

Richard

On Fri, Oct 27, 2017 at 6:29 PM, Collier, Briana <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)> wrote:

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## "Collier, Briana" <briana.collier@sol.doi.gov>

---

**From:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**Sent:** Mon Oct 30 2017 14:30:56 GMT-0600 (MDT)  
**To:** "McNeer, Richard" <richard.mcneer@sol.doi.gov>



**CC:** Karen Hawbecker <karen.hawbecker@sol.doi.gov>, Roy Fuller <roy.fuller@sol.doi.gov>, Ryan Sklar <ryan.sklar@sol.doi.gov>  
**Subject:** Re: Twin Metals M-Opinion reversal draft  
**Attachments:** 2017.10.27 draft M-Op reversal rhm+bwc.docx

Thanks for your review, Richard. I made a few additional edits according to your comments in the version below.

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

Phone: (202) 208-4853

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On Mon, Oct 30, 2017 at 1:26 PM, McNeer, Richard <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)> wrote:

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**"Hawbecker, Karen" <karen.hawbecker@sol.doi.gov>**

---

**From:** "Hawbecker, Karen" <karen.hawbecker@sol.doi.gov>  
**Sent:** Mon Oct 30 2017 15:14:54 GMT-0600 (MDT)  
**To:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**CC:** "McNeer, Richard" <richard.mcneer@sol.doi.gov>, Roy Fuller <roy.fuller@sol.doi.gov>, Ryan Sklar <ryan.sklar@sol.doi.gov>  
**Subject:** Re: Twin Metals M-Opinion reversal draft

I'll start my review now, so I ask everyone else to hold off on any additional changes until I send my edits. Thanks. -- Karen

On Mon, Oct 30, 2017 at 4:30 PM, Collier, Briana <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)> wrote:

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M-

Memorandum

To: Director, Bureau of Land Management

From: Solicitor

Subject: Reversal of M-37036, "Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-01353)"

(b) (5)



(b) (5)

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rates than INCO was willing to agree to pay. Memorandum from USGS Chief, Conservation

Commented [BC4]: (b) (5)

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(b) (5)

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[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]



(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

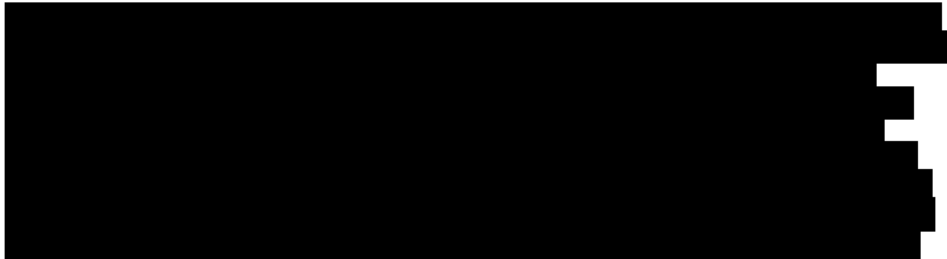
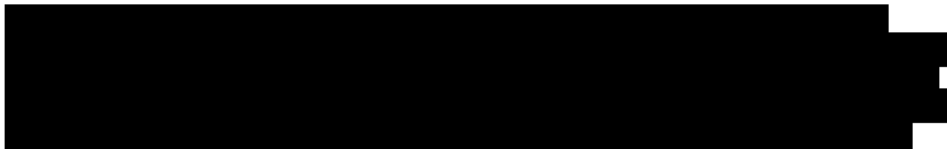
[REDACTED]

[REDACTED]

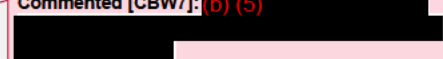
(b) (5)



(b) (5)



Commented [CBW7]: (b) (5)



(b) (5)

[REDACTED]

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[REDACTED]

[REDACTED]

(b) (5)

M-

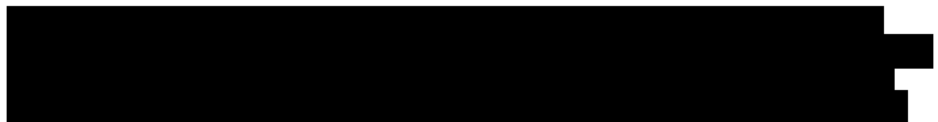
Memorandum

To: Director, Bureau of Land Management

From: Solicitor

Subject: Reversal of M-37036, "Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-01353)"

(b) (5)



(b) (5)

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

Commented [CBW1]: (b) (5)

Commented [CBW2]: (b) (5)

(b) (5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Commented [MR3]: (b) (5)

[Redacted]

[Redacted]

Commented [CBW4]: Optional

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(b) (5)

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[REDACTED]

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[REDACTED]

(b) (5) [Redacted]

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[Redacted]

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(b) (5)

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(b) (5)

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Commented [CBW8]: (b) (5)

(b) (5)



(b) (5)



M-

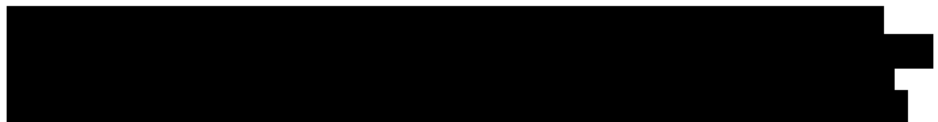
Memorandum

To: Director, Bureau of Land Management

From: Solicitor

Subject: Reversal of M-37036, "Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-01353)"

(b) (5)





(b) (5)

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

Commented [CBW1]: Optional. See below.

Commented [CBW2]: (b) (5)

(b) (5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Commented [MR3]: (b) (5)

[Redacted]

Commented [CBW4]: Optional

(b) (5)

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[Redacted]

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(b) (5)

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(b) (5)



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(b) (5)

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[REDACTED]

Commented [CBW8]: (b) (5)

[REDACTED]

(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



(b) (5)



(b) (5)



**Created by:**[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)

Total Messages in label:97 (20 conversations)

Created: 08-07-2018 at 11:56 AM

## M-Op research

**From:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**Sent:** Fri Oct 27 2017 08:16:30 GMT-0600 (MDT)  
**To:** Briana Collier <briana.collier@sol.doi.gov>  
**Subject:** M-Op research

(b) (5)

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(b) (5)



**Created by:**[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)

Total Messages in label:97 (20 conversations)

Created: 08-07-2018 at 11:56 AM

# Conversation Contents

**M-op rev. 10/22 version**

**Attachments:**

/17. M-op rev. 10/22 version/1.1 2017.10.22 draft M-Op reversal.docx

**"Collier, Briana" <briana.collier@sol.doi.gov>**

---

**From:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**Sent:** Sun Oct 22 2017 22:33:17 GMT-0600 (MDT)  
**To:** Briana Collier <briana.collier@sol.doi.gov>  
**Subject:** M-op rev. 10/22 version  
**Attachments:** 2017.10.22 draft M-Op reversal.docx

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

Phone: (202) 208-4853

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(b)

)  
Memorandum

To: Director, Bureau of Land Management

From: Solicitor

Subject: Reversal of M-37036, "Twin Metals Minnesota Application to Renew Preference  
Right Leases (MNES-01352 and MNES-01353)"

Commented [CBW1] (b) (5)

37.

(b) (5)

(b) (5)

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

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Commented [BC2]: (b) (5)

(b) (5)

[REDACTED]

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[REDACTED]

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[REDACTED]



(b) (5)

[Redacted]

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Commented [4]: (b) (5)



(b) (5) [Redacted]

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(b) (5)



**Created by:**[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)

Total Messages in label:97 (20 conversations)

Created: 08-07-2018 at 11:57 AM

# Conversation Contents

## Twin Metals M-Opinion outline

### Attachments:

/18. Twin Metals M-Opinion outline/1.1 TwinMetals-DraftrevisedM-Opargumentoutline.docx

/18. Twin Metals M-Opinion outline/3.1 2017.09.18Twin Metals-Draft revised M-Op argument outline.docx

---

## "Hawbecker, Karen" <karen.hawbecker@sol.doi.gov>

**From:** "Hawbecker, Karen" <karen.hawbecker@sol.doi.gov>  
**Sent:** Wed Oct 04 2017 15:46:59 GMT-0600 (MDT)  
**To:** Jack Haugrud <jack.haugrud@sol.doi.gov>  
**CC:** Briana Collier <briana.collier@sol.doi.gov>, Roy Fuller <roy.fuller@sol.doi.gov>, Richard McNeer <Richard.McNeer@sol.doi.gov>  
**Subject:** Twin Metals M-Opinion outline  
**Attachments:** TwinMetals-DraftrevisedM-Opargumentoutline.docx

Jack, This is the outline for a new draft opinion that Briana prepared in May. She has updated her first comment in a version that she'll send in response to this email. Let us know if you see this approach as a good game plan for beginning work on a first draft. Also, (b) (5). --Karen

----- Forwarded message -----

**From:** McNeer, Richard <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>  
**Date:** Wed, May 17, 2017 at 10:17 AM  
**Subject:** Twin Metals  
**To:** Jack Haugrud <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)>  
**Cc:** "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>, "Hawbecker, Karen" <[KAREN.HAWBECKER@sol.doi.gov](mailto:KAREN.HAWBECKER@sol.doi.gov)>

Jack:

FYI. Here is Briana's draft outline of an explanation for reversal of the M-Opinion.

Please let us know if you have any comments.

Richard

---

## "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

**From:** "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>  
**Sent:** Wed Oct 04 2017 15:56:40 GMT-0600 (MDT)

**To:** "Hawbecker, Karen" <karen.hawbecker@sol.doi.gov>  
Briana Collier <briana.collier@sol.doi.gov>, Roy Fuller  
**CC:** <roy.fuller@sol.doi.gov>, Richard McNeer  
<Richard.McNeer@sol.doi.gov>  
**Subject:** Re: Twin Metals M-Opinion outline

I've quickly reviewed and think this is a good start. (b) (5)

On Wed, Oct 4, 2017 at 5:46 PM, Hawbecker, Karen <karen.hawbecker@sol.doi.gov> wrote:  
Jack, This is the outline for a new draft opinion that Briana prepared in May. She has updated her first comment in a version that she'll send in response to this email. Let us know if you see this approach as a good game plan for beginning work on a first draft. Also, (b) (5). --Karen

----- Forwarded message -----

**From:** McNeer, Richard <richard.mcneer@sol.doi.gov>  
**Date:** Wed, May 17, 2017 at 10:17 AM  
**Subject:** Twin Metals  
**To:** Jack Haugrud <jack.haugrud@sol.doi.gov>  
**Cc:** "Collier, Briana" <briana.collier@sol.doi.gov>, "Hawbecker, Karen" <KAREN.HAWBECKER@sol.doi.gov>

Jack:

FYI. Here is Briana's draft outline of an explanation for reversal of the M-Opinion.

Please let us know if you have any comments.

Richard

---

**"Collier, Briana" <briana.collier@sol.doi.gov>**

**From:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**Sent:** Wed Oct 04 2017 15:57:02 GMT-0600 (MDT)  
**To:** "Hawbecker, Karen" <karen.hawbecker@sol.doi.gov>  
Jack Haugrud <jack.haugrud@sol.doi.gov>, Roy Fuller  
**CC:** <roy.fuller@sol.doi.gov>, Richard McNeer  
<Richard.McNeer@sol.doi.gov>  
**Subject:** Re: Twin Metals M-Opinion outline  
**Attachments:** 2017.09.18Twin Metals-Draft revised M-Op argument outline.docx

Jack, Here is the updated version of the outline. Please let me know if you would like me to send along the historic lease file documents referenced. Thank you, Briana

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

Phone: (202) 208-4853

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On Wed, Oct 4, 2017 at 3:46 PM, Hawbecker, Karen <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)> wrote:

Jack, This is the outline for a new draft opinion that Briana prepared in May. She has updated her first comment in a version that she'll send in response to this email. Let us know if you see this approach as a good game plan for beginning work on a first draft. Also, (b) (5). --Karen

----- Forwarded message -----

From: **McNeer, Richard** <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>

Date: Wed, May 17, 2017 at 10:17 AM

Subject: Twin Metals

To: Jack Haugrud <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)>

Cc: "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>, "Hawbecker, Karen" <[KAREN.HAWBECKER@sol.doi.gov](mailto:KAREN.HAWBECKER@sol.doi.gov)>

Jack:

FYI. Here is Briana's draft outline of an explanation for reversal of the M-Opinion.

Please let us know if you have any comments.

Richard



## M-Opinion reversal arguments

(b) (5)

[REDACTED]

[REDACTED]

Commented [1]:(b) (5)

[REDACTED]

(b) (5)

[REDACTED]

Commented [2]: [REDACTED]

Commented [3]: (b) (5)

(b) (5)

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(b) (5)

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## M-Opinion reversal arguments

(b) (5)

[REDACTED]

[REDACTED]

Commented [1]: (b) (5)

[REDACTED]

(b) (5)

Commented [2]: (b) (5)

Commented [3]: (b) (5)

(b) (5)

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Commented [4]: (b) (5)

(b) (5)

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]



(b) (5)



**Created by:**[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)

Total Messages in label:97 (20 conversations)

Created: 08-07-2018 at 11:57 AM

# Conversation Contents

## Twin Metals leases and M-37036

### Attachments:

/19. Twin Metals leases and M-37036/1.1 MNES-01352 1966 Lease.pdf  
/19. Twin Metals leases and M-37036/1.2 MNES\_01353 1966 Lease.pdf  
/19. Twin Metals leases and M-37036/1.3 2004 TMM Lease Renewals.pdf  
/19. Twin Metals leases and M-37036/1.4 M37036 Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-0135).pdf  
/19. Twin Metals leases and M-37036/3.1 MNES-01352 1966 Lease.pdf  
/19. Twin Metals leases and M-37036/3.2 MNES\_01353 1966 Lease.pdf  
/19. Twin Metals leases and M-37036/3.3 2004 TMM Lease Renewals.pdf  
/19. Twin Metals leases and M-37036/3.4 M37036 Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-0135).pdf

**"Collier, Briana" <briana.collier@sol.doi.gov>**

---

**From:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**Sent:** Wed Oct 04 2017 11:26:51 GMT-0600 (MDT)  
**To:** Karen Hawbecker <karen.hawbecker@sol.doi.gov>  
**Subject:** Twin Metals leases and M-37036  
MNES-01352 1966 Lease.pdf MNES\_01353 1966 Lease.pdf 2004  
**Attachments:** TMM Lease Renewals.pdf M37036 Twin Metals Minnesota  
Application to Renew Preference Right Leases (MNES-01352 and  
MNES-0135).pdf

Hi Karen, Here are the Twin Metals 1966 and 2004 leases, and the M-Opinion for David. Thank you, Briana

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

Phone: (202) 208-4853

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**"Hawbecker, Karen" <karen.hawbecker@sol.doi.gov>**

---

**From:** "Hawbecker, Karen" <karen.hawbecker@sol.doi.gov>  
**Sent:** Wed Oct 04 2017 11:35:36 GMT-0600 (MDT)

**To:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**Subject:** Re: Twin Metals leases and M-37036

Thanks, Briana!

On Wed, Oct 4, 2017 at 1:26 PM, Collier, Briana <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)> wrote:  
Hi Karen, Here are the Twin Metals 1966 and 2004 leases, and the M-Opinion for David.  
Thank you, Briana

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

Phone: (202) 208-4853

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**"Hawbecker, Karen" <karen.hawbecker@sol.doi.gov>**

---

**From:** "Hawbecker, Karen" <karen.hawbecker@sol.doi.gov>  
**Sent:** Wed Oct 04 2017 11:54:32 GMT-0600 (MDT)  
**To:** David Bernhardt <(b) (6) @ios.doi.gov>  
Daniel Jorjani <daniel.jorjani@sol.doi.gov>, Jack Haugrud  
<jack.haugrud@sol.doi.gov>, Briana Collier  
**CC:** <briana.collier@sol.doi.gov>, Gareth Rees  
<gareth\_rees@ios.doi.gov>  
**Subject:** Twin Metals leases and M-37036  
MNES-01352 1966 Lease.pdf MNES\_01353 1966 Lease.pdf 2004  
**Attachments:** TMM Lease Renewals.pdf M37036 Twin Metals Minnesota  
Application to Renew Preference Right Leases (MNES-01352 and  
MNES-0135).pdf

David, Here are the Twin Metals 1966 leases, the 2004 lease renewals, and the M-Opinion. The renewal terms in the 1966 leases are in Section 5 on page 8. --Karen

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

MINERAL LEASE

This lease entered into on the 1st day of June, 1966 between the United States of America, as Lessor, through the Bureau of Land Management, and The International Nickel Company, Inc., a Delaware corporation with offices at 67 Wall Street, New York, New York, as Lessee, pursuant to the authority set out in, and subject to, Section 402 of the President's Reorganization Plan No. 3 of 1946, 60 Stat. 1099, and the Act of June 30, 1950, 64 Stat. 311, and to all regulations of the Secretary of the Interior now in force when not inconsistent with any of the provisions herein.

WITNESSETH:

Sec. 1. (a) Rights of Lessee. In consideration of the rents and royalties to be paid and conditions and covenants to be observed as herein set forth the Lessor grants to the Lessee, subject to all privileges and uses heretofore duly authorized and prior valid claims, the exclusive right to mine, remove, and dispose of all the copper and/or nickel minerals and associated minerals and, with the exception of oil, gas, oil shale, coal, phosphate, potassium, sodium, or sulphur, any other minerals in, upon, or under the following described lands in the United States, in the State of Minnesota:

In Lake County:

Township 61 North, Range 11 West of the Fourth Principal Meridian:

Section 3, Lot 2  
SW-1/4 of SW-1/4  
S-1/2 of SE-1/4  
Section 5, Lots 1 and 2  
S-1/2 of NE-1/4  
Lot 6  
Lot 7  
NE-1/4 of SW-1/4  
S-1/2 of SW-1/4  
N-1/2 of SE-1/4

Section 6, Lots 13, 22, 23 and 24  
Section 7, Lots 1, 2, 3, 4, 9, 10, 12, 15, 16 and 19  
Section 8, Lots 2 and 6  
Section 9, All except W-1/2 of NW-1/4  
Section 18, Lots 2, 7, 9, 12, 13, 14, 15, 16, 17, 18  
19 and 20

Section 19, Lots 2, 3, 4, 5, 7 and 8

Township 62 North, Range 11 West of the Fourth Principal Meridian:

Section 27, SE-1/4 of SW-1/4  
Section 32, Lot 4  
Section 33, Lots 6 and 7  
Section 34, NW-1/4

In St. Louis County:

Township 61 North, Range 12 West of the Fourth Principal Meridian:

Section 25, Lot 2  
SW-1/4 of SW-1/4

containing ~~2,569.87~~ acres, more or less, together with the right

2,610.07

SEE DECISION 9-1-66

to construct and maintain thereon such structures and other facilities as may be necessary or convenient for the mining, preparation, and removal of said minerals, for a period of twenty (20) years with a right in the Lessee to renew the same for successive periods of ten (10) years each in accordance with regulation 43 CFR § 3221.4(f) and the provisions of this lease.

(b) Authorized Agency Representative. The United States agency having administrative control over the surface use of the land is the Department of Agriculture and its authorized agency representative, hereinafter called the "Authorized Officer," to whom inquiries should be addressed is the Supervisor, Superior National Forest at Duluth, Minnesota.

Sec. 2. In consideration of the foregoing, the Lessee agrees:

(a) Rentals. To pay to the Lessor annually in advance, beginning with the date of this lease, rental of one dollar (\$1.00) for each acre or fraction thereof for each lease year until production commences, the rental payment for the year in which production commences to be credited on royalties that accrue during that lease year.

(b) Royalty. To pay the Lessor within 30 days after the end of each period prescribed in subsection (e) of this section a royalty (i) at the rate of 4% during the first ten years of the primary term and (ii) at the rate of 4-1/2% during the second 10 years of the primary term, of the gross value of the minerals mined hereunder which are shipped to the concentrating mill during each such period. Said value for the purposes of this Agreement shall be taken to be one-third of the market prices of a quantity of fully-refined copper and of a quantity of fully-refined nickel equal to the respective quantities of unrefined copper and unrefined nickel contained in said minerals so shipped to the concentrating mill.

(c) Minimum royalty. Beginning after the tenth year of the lease, except with respect to any periods during which operations are interrupted by strikes, the elements or casualties not attributable to the Lessee, to mine each year from the area covered by the lease a quantity of the leased minerals such that the royalties payable for said year under subsections (b) and (d) hereof will during the primary term of the lease be at least equal to \$5 per annum per acre included in the leased premises at the beginning of such year, and during each renewal period of the lease be at least equal to \$10 per annum per acre included in the leased premises at the beginning of such year; or in lieu thereof to pay the Lessor as royalty within 30 days after the end of such year that amount which, when added to the royalties, if any, payable for said year under subsections (b) and (d) hereof, will equal the minimum royalty for that year herein provided. Lessor may in its discretion, waive, reduce, or suspend the minimum royalty payment for reasonable periods of time in the interest of conservation or when such action does not adversely affect the interest of the United States of America in accordance with the regulation 43 CFR § 3222.6-2.

(d) Additional royalty. (1) In order to provide a royalty in respect of any associated products (as hereinafter defined), to pay the Lessor within 30 days after the end of each period prescribed in subsection (e) of this section an additional royalty of 0.3% of the gross value of the minerals mined under this lease (determined on the basis of their copper and nickel content as provided in subsection (b) of this section) which are shipped to the concentrating mill during such

period. During the first ten years of the lease such additional royalty shall not be payable if the Lessee demonstrates that no associated products are being recovered from the minerals mined under this lease, but beginning after the tenth year of the lease, such additional royalty shall be payable whether or not associated products are recovered from the minerals mined under this lease.

(2) The Lessee will also pay the Lessor within 90 days after the end of each lease year a further additional royalty of 1% of the amount, if any, by which the gross value of associated products exceeds 20% of the aggregate market price as fully-refined metals of the quantity of copper and nickel contained in the minerals mined under this lease which are shipped to the concentrating mill during such lease year. At the request of either party following any lease year for which said 1% royalty has been payable and the gross value of associated products exceeds 30% of the said aggregate market price, representatives of the Lessor and the Lessee shall meet at a mutually agreeable time to consider and decide whether additional royalty for associated products shall continue to be payable as provided in this subsection (d), or shall (in lieu thereof) be payable on such basis as may be negotiated. In connection with such meeting the Lessee will make a reasonable investigation to ascertain insofar as practicable the volume of associated products which appear to be currently recovered from the minerals mined under this lease, and will provide the Lessor with the results of this investigation.

(3) For purposes of this agreement, the term "associated products" shall mean (i) fully-refined chemical elements (other than copper and nickel) not further processed and (ii) end products containing such elements produced by the Lessee (prior to full refining) for their value as such (other than products valuable chiefly by reason of their copper and/or nickel content), which are, in either case, recovered by the Lessee from minerals mined under this lease and sold or used by the Lessee during the lease year for which additional royalty, if any, is due; and the gross value of such products shall be taken to be the aggregate of the market prices of the respective quantities of associated products so sold or used by the Lessee.

(e) Statement. To furnish for each month or such longer period as may be prescribed by the Regional Mining Supervisor of the Geological Survey, statements in detail in such form as may be prescribed by him, of the amount and value under subsection (b) of this section of the minerals mined hereunder which are shipped to the concentrating mill during such period, for use in determining royalties, such statements to be furnished within 30 days from the close of such period. Falsification of such statements shall be grounds for cancellation of the lease.

(f) Market prices. For the purposes of this section the "market price of fully-refined copper" per pound shall be the average of the monthly average prices per pound for Domestic Refinery Electrolytic Copper in carload lots, f.o.b. Atlantic Seaboard refineries, published in E. & M. J. Metal and Mineral Markets for the period for which the royalty is being computed, and the "market price of fully-refined nickel" per pound shall be the average of the monthly average prices per pound for nickel (i.e., electrolytic nickel cathodes) in carload lots, f.o.b. Port Colborne, Ontario, Canada, United States import duty (if any) included, published in E. & M. J. Metal and Mineral Markets for the period for which royalty is being computed; and the respective "market prices of associated products" per unit

shall be the average of the monthly average prices per unit for such respective products in their usual and customary shipping quantities, f.o.b. their usual and customary place of disposal, published in E. & M. J. Metal and Mineral Markets for the period for which additional royalty, if any, is being computed.

(g) Bond. To furnish and maintain a bond in the sum of \$ 10,000.00 conditioned upon compliance with the terms and conditions of this lease, and to increase the amount thereof or furnish such other bond as may be required.

(h) Inspection. To permit at all reasonable times: (1) inspection by any authorized officer of the leased premises and all surface and underground improvements, works, machinery, equipment, and all books and records pertaining to operations and surveys or investigations under this lease; and (2) the Lessor to make copies of and extracts from any or all books and records pertaining to operations under this lease.

(i) Maps--Reports. To furnish, in duplicate, to the Regional Mining Supervisor, at such times as he may require, a plat in the manner and form prescribed by him showing prospecting and development work and improvements on the leased land and other related information, with a report as to all buildings, structures, and other works or equipment, situated elsewhere and owned or operated in conjunction with, or as a part of the operations conducted hereunder.

(j) To comply with all regulations of the Secretary of the Interior and the Secretary of Agriculture applicable to the leased premises which are under his jurisdiction; and to conduct operations in an orderly manner and in accordance with regulations in 30 CFR, Part 2250, and the applicable Federal and State laws; and to exercise reasonable diligence, skill, and care in the operation of the property; and to carry on all operations in accordance with approved methods and practices, having due regard for the prevention of damage to mineral deposits, water horizons and property, injury to life and health, and economic waste.

*7-11-46  
for memo to  
Regional  
Mining  
Staff (12-26)  
Jed 7-5-46*

(k) Taxes. To pay when due all taxes lawfully assessed and levied under the laws of the State or the United States upon improvements, output of mines, and other rights, property, and assets of the Lessee.

(l) Deliver Premises. To deliver up to the Lessor in good order and condition and subject to the provisions of Section 9 hereof on the termination of this lease as a result of forfeiture thereof the lands covered thereby, including all underground timbering and such other supports and structures as are necessary for the preservation of the mine.

(m) Assignment. Not to assign this lease, or any interest therein, whether by direct assignment, operating agreement, working or royalty interest, or otherwise, nor sublet any portion of the leased premises, except with the approval in writing of the Lessor. All such assignments or subleases must be submitted in triplicate within 90 days from the date of execution and must contain all of the terms and conditions agreed upon by the parties thereto. Not to create overriding royalties in excess of those authorized by regulation 43 CFR § 3226.1.

An assignment of all or part of the record title to a portion of the acreage in the lease shall separate the lease into separate leaseholds and the terms hereof shall apply

separately to the segregated portions. Advance annual rental payments, if previously terminated, shall be resumed as to an undeveloped segregated portion on the next anniversary date of the lease; the minimum royalty payment herein specified shall apply separately to the segregated portions and the time allowed within which to commence operations on an undeveloped segregated portion shall be such reasonable period as shall be prescribed by the Lessor at the time the assignment is approved.

(n) Nondiscrimination Clauses. In connection with the performance of work under this contract, the Lessee agrees as follows:

(1) The Lessee will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Lessee will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Lessee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the authorized contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The Lessee will, in all solicitations or advertisements for employees placed by or on behalf of the Lessee state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

(3) The Lessee will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the said labor union or workers' representative of the Lessee's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Lessee will comply with all provisions of Executive Order No. 10925 of March 6, 1961, as amended, and of the rules, regulations, and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.

(5) The Lessee will furnish all information and reports required by Executive Order No. 10925 of March 6, 1961, as amended, and by the rules, regulations, and orders of the said Committee, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Committee for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Lessee's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the Lessee may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 10925 of March 6, 1961, as amended, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order or by rule, regulation, or order of the President's Committee on Equal Employment Opportunity, or as



otherwise provided by law.

(7) The Lessee will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the President's Committee on Equal Employment Opportunity issued pursuant to section 303 of Executive Order No. 10925 of March 6, 1961, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Lessee will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the Lessee becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Lessee may request the United States to enter into such litigation to protect the interests of the United States.

(o) Payments. Rentals under this lease shall be paid to the Manager of the proper Land Office, except that when this lease becomes productive the rentals and royalties shall be paid to the Regional Mining Supervisor of the United States Geological Survey, with whom all reports concerning operations under the lease shall be filed. All remittances to the Bureau of Land Management shall be made payable to the Bureau of Land Management, those to the Geological Survey shall be made payable to the United States Geological Survey.

Sec. 3. Lessee further agrees:

(a) Protection of Property. To conduct all operations hereunder with due regard for good land management, not to cut or destroy timber without previous permission from the Authorized Officer and to pay for such timber at rates prescribed by him; to avoid damage to improvements, timber, crops, or other cover; unless otherwise authorized by the Authorized Officer, not drill any well, carry on operations, make excavations, construct tunnels, drill, or otherwise disturb the surface of the lands within 200 feet of any building thereon and whenever required in writing by the Authorized Officer, and upon any partial or total relinquishment, cancellation or termination of this lease as to that portion of the land to which his rights have terminated, to fence or fill all sump holes, ditches and other excavations, remove or cover all debris, and so far as reasonably possible, reseed or otherwise restore the surface of the lands to their former condition, or to a productive or other condition satisfactory to the Authorized Officer, including the removal of structures as and if required, and when required by such Officer to bury all pipelines below plow depth.

(b) Fire precautions. To do all in his power to prevent and suppress fires on the land and vicinity, and to require his employees, contractors, and subcontractors to do likewise. Unless prevented by circumstances over which he has no control, to place his employees, contractors, and subcontractors at the disposal of the Authorized Officer for the purpose of fighting fires on or originating on the land or on adjacent areas or caused by the negligence of the Lessee or his employees, contractors, and subcontractors, with the understanding that payment for such services shall be made at rates to be determined by such Authorized Officer but not less than the current rates of pay prevailing in the vicinity for services of a similar character: Provided, that if the

Lessee, his employees, contractors, or subcontractors, or employees of any of them, caused or could have prevented the origin or spread of said fire or fires, no payment shall be made for services so rendered. During periods of serious fire danger, as may be specified by the Authorized Officer, the Lessee shall prohibit smoking and the building of camp and lunch fires by his employees, contractors, and subcontractors, within the leased area except at established camps, and shall enforce this prohibition by all means within his power: Provided, that the Authorized Officer may designate safe places where, after all inflammable material has been cleared away, campfires may be built for the purpose of heating lunches and where, at the option of the Lessee, smoking may be permitted. The Lessee will not burn rubbish, trash, or other inflammable materials except with the consent of the Authorized Officer. The Lessee shall build or construct such fire lines or do such clearing on the land as the Authorized Officer decides is essential for forest, brush, and grass fire prevention which is or may be necessitated by the exercise of the privileges authorized by this lease, and shall maintain such fire tools at his headquarters or at the appropriate location on the land as are deemed necessary by such Officer.

(c) Approval of Construction. Not to clear or use the land for development or for construction purposes of any kind until a plan of construction and development therefor has been approved by the Authorized Officer and that in the location, design, construction and maintenance of all authorized works, camps, buildings, plants, waterways, roads, telegraph or telephone lines, pipelines, reservoirs, tanks, pumping stations, or other structures or clearance, Lessee shall do all things reasonably necessary to prevent or reduce scarring and erosion of the land, pollution of the water resources and any damage to the watershed.

(d) Damage to Property. To pay the Lessor or its tenant, as the case may be, for any and all damage to or destruction of property caused by the Lessee's operations hereunder; to save and hold the Lessor or the surface owner or their tenants harmless from all damage or claims for damage to persons or property resulting from the Lessee's operations under this lease; and where the surface of the leased land is owned by other than the Lessor, to pay such owner, or his tenant, as the case may be, for damage or injury to livestock, crops, trees, pipelines, buildings, and other improvements of the leased lands. That where construction, operation, or maintenance of any of the facilities on or connected with this lease causes damage to the watershed or pollution of the water resources, to repair such damage and to take such corrective measures as are required by the Authorized Officer, including the reseedling or other restoration of the vegetative cover.

(e) Protection of Livestock; Access to Leased Lands. To install and maintain cattle guards to prevent the passage of livestock in any openings made in fences by the Lessee or his contractors to provide access to the lands covered by this lease for automotive and other equipment.

(f) Authorized Officer. All inquiries relating to this section should be addressed to the Authorized Officer named in Section 1(b) of this lease.

Sec. 4. Lessee--Agent. Prior to the beginning of operations the Lessee shall appoint and maintain at all times during the term of this lease a local agent upon whom may be served written orders or notices respecting matters contained in this lease, and shall inform the Authorized Officer and the Regional

Mining Supervisor of the Geological Survey, in writing, of the name and address of such agent. If a substitute agent is appointed, the Lessee shall immediately so inform the said Officers.

Sec. 5. Renewal Terms. The Lessor shall have the right to reasonably readjust and fix royalties payable hereunder at the end of the primary term of this lease and thereafter at the end of each successive renewal thereof unless otherwise provided by law at the time of the expiration of any such period, and to readjust other terms and conditions of the lease, including the revision of or imposition of stipulations for the protection of the surface of the land as may be required by the agency having jurisdiction thereof; provided, however, that the Lessee shall have the right to three successive ten-year renewals of this lease with any readjustment in the royalties payable hereunder limited to that hereinafter provided and with no readjustment of any of the other terms and conditions of this lease unless at the end of the primary term of this lease the Lessee shall not have begun production, either hereunder or under the companion lease granted to the Lessee this day. The Secretary of the Interior may grant extensions of time for commencement of production in the interest of conservation or upon a satisfactory showing by the Lessee that the lease cannot be successfully operated at a profit or for other reasons, and the Lessee shall be entitled to renewal as herein provided without readjustment except of royalties payable hereunder if at the end of the primary or renewal period such an extension shall be in effect, but the Lessee shall not be entitled to subsequent such renewals unless it shall have begun production within the extended time. If the Lessee shall be entitled to renewal without readjustment except of royalties payable hereunder, the Secretary of the Interior may in his discretion increase the royalty rate prescribed in subsection (b) of Section 2 up to, but not exceeding (i) 5% during the first ten-year renewal period, (ii) 6% during the second ten-year renewal period, and (iii) 7% during the third ten-year renewal period. The extent of readjustment of royalty, if any, to be made under this section shall be determined prior to the commencement of the renewal period.

Sec. 6. The Lessor expressly reserves:

(a) Rights Reserved. The right to permit for joint or several use easements or rights-of-way, including easements in tunnels upon, through, or in the land leased, occupied, or used as may be necessary or appropriate to the working of the same or other lands, and the preparation and shipment of the products thereof by or under authority of the Government, its Lessees or Permittees, and for other public purposes.

(b) Waiver of Conditions. The right to waive any breach of the covenants and conditions contained herein, but any such waiver shall extend only to the particular breach so waived and shall not limit the rights of the Lessor with respect to any future breach; nor shall the waiver of a particular cause of forfeiture prevent cancellation of this lease for any other cause, or for the same cause occurring at another time.

Sec. 7. It is mutually agreed:

(a) Mining Methods. That this lease does not authorize the mining or removal of the mineral deposits by stripping, rim cutting, or open pit methods without the prior written

approval of the Authorized Officer and on such conditions as he may prescribe.

(b) Reduction or Smelting of Ores. That the reduction or smelting of ores on the leased land is expressly prohibited in the absence of an agreement between the Lessee and the Authorized Officer authorizing such use of the surface of the land and providing for the necessary protection of life and property. Such agreement shall contain all of the terms and conditions under which the reduction or smelting of ores may be carried on and any violation of that agreement shall be considered a violation of the terms of this lease for the purpose of Section 10.

(c) Uses and Disposition of Surface. That the leased land shall be subject at all times to any other lawful uses or sale by the United States, its Lessees, Permittees, Licensees, and Assigns; provided that such uses or sale shall not prevent, obstruct, or unduly interfere with any privilege granted under this lease; Provided, that the Lessee shall recognize existing uses and commitments in the form of grazing, timber cutting, and special use permits, water developments, ditch, road, trail, pipeline, telephone and telegraph lines, fence, rights-of-way, and other similar improvements, and to conduct his operations so as to interfere as little as possible with the rights and privileges granted by these permits or with other existing uses.

(d) Granting Leases for Other Minerals. That the granting of this lease will not preclude the issuance of other leases of the same land for the purpose of mining and extracting oil, gas, oil shale, coal, phosphate, potassium, sodium, and sulphur.

Sec. 8. Relinquishment of Lease. The Lessee may surrender this lease or any one or more legal subdivisions included in the leased premises. If the lands are not described by legal subdivision, a partial relinquishment must describe definitely the lands surrendered and give the exact area thereof. A relinquishment must be filed in triplicate in the proper Land Office. Upon its acceptance, it will be effective as of the date it is filed, subject to the continued obligation of the Lessee and his surety to make payment of all accrued rentals and royalties, and to provide for the preservation of any mines or productive works or permanent improvements on the lands in accordance with the regulations and terms of the lease, and for the faithful compliance of all the terms of the lease.

Sec. 9. Removal of Equipment, etc., on Termination of Lease. On termination of this lease, by surrender, forfeiture, or otherwise, the Lessee shall have the privilege at any time within a period of one year thereafter of removing from the premises all machinery, equipment, tools, and materials, other than underground timbering placed by the Lessee in or on the leased lands, which are not necessary for the preservation of the mine. Any materials, tools, appliances, machinery, structures, and equipment, subject to removal as above provided, which are allowed to remain on the leased land shall become the property of the Lessor on expiration of the one-year period or such extension thereof as may be granted by the Lessor, but the Lessee shall remove any or all of such property when so directed by the Lessor.

Sec. 10. Proceedings in Case of Default. If the Lessee does not comply with the applicable regulations made a part hereof or the terms of this lease and such default continues for a period of 30 days, or such longer period as the Lessor determines may be reasonably required to correct the default, after service of written notice thereof by the Lessor, the Lessor may institute appropriate proceedings in a court of competent jurisdiction for the forfeiture and cancellation of this lease or seek such other administrative, legal or equitable remedies as may be appropriate. Furthermore, if the Lessee fails to take prompt and necessary steps to prevent loss or damage to the mine, property, or premises, or danger to the employees, the Lessor may enter on the premises and take such measures as may be deemed necessary to prevent such loss or damage, or to correct the dangerous or unsafe condition of the mine or works thereof, which shall be at the expense of the Lessee, but the Lessee shall not be held responsible for delays or casualties occasioned by causes beyond the Lessee's control.

Sec. 11. Heirs and Successors-in-Interest. Each obligation hereunder shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. Unlawful Interest. It is also further agreed that no Member of, or Delegate to, Congress, or Resident Commissioner, after his election or appointment, or either before or after he has qualified and during his continuance in office, and that no officer, agent, or employee of the Department of the Interior, except as provided in 43 CFR 7.4(a)(1), shall be admitted to any share or part in this lease or derive any benefit that may arise therefrom; and the provisions of Section 3741 of the Revised Statutes of the United States, as amended (41 U.S.C., Sec. 22), and sections 431, 432, and 433, Title 18 U.S.C., relating to contracts, enter into and form a part of this lease so far as the same may be applicable.

Sec. 13. Special Stipulations.

(a) In conformity with the principles of the Shipstead-Newton-Nolan Act of July 10, 1930 (16 U.S.C. 577), no occupancy or use of the surface within 400 feet of the shoreline of any lake or stream is authorized without the written approval of the Authorized Officer.

(b) Any and all operations authorized by this lease shall be done in accordance with a plan which must be submitted in triplicate and approved in writing by the Authorized Officer before such operations are begun. The operating plan will contain all such provisions as the Authorized Officer may reasonably determine are needed to maintain proper administration of the lands and surface resources. Where appropriate, depending upon the location and type of operation, the Authorized Officer may require the plan to contain provisions concerning the following matters:

1. The location and extent of areas to be occupied during operations.
2. The methods to be used in the operations.
3. The size and type of equipment to be used in the operations.
4. The capacity, character, standards of construction and size of all structures and facilities to be built.
5. The location and size of areas upon which vegetation will be destroyed or soil will be laid bare.

6. The steps which will be taken to prevent and control soil erosion.
7. The steps which will be taken to prevent water pollution.
8. The character, amount, and time of use of explosives or fire, including safety precautions which will be taken during their use.
9. The program proposed for rehabilitation and revegetation of disturbed lands.

If later operations require departure from or additions to the approved plan, revisions or amendments will be submitted in triplicate, with statements of the reasons for changes or additions, to the Authorized Officer for approval. Any and all operations conducted in advance of approval of an original, revised, or amended operating plan, or which are not in accord with an approved plan, constitute violations of the terms of this lease.

(c) If minerals from the leased premises be shipped outside the United States for treatment, Lessee shall, upon the call of the Lessor, and provided that there be no imposition of tariff, cause to be returned for sale or for use in the operations of the Lessee or of its affiliates in the United States quantities of copper equal to the quantities recovered from the minerals so shipped during the time of the call. The copper so returned shall be priced on no different basis than would then be applicable under circumstances prevailing had it been produced entirely within the United States and sold by a domestic producer, so that the prices will be competitive with those of domestic producers.

(d) Within 12 months after approval by the Authorized Officer Lessee will carry out a program in respect of this lease and the companion lease issued this day of drilling to ascertain the facts which will be essential to instituting production, and also will ship to the pilot plants of its parent company in Ontario, Canada, not less than 1,000 tons of ore to seek appropriate extractive metallurgical procedures therefor. The anticipated cost of the drilling program, to cover from 10,000 to 20,000 feet of drilling at an average cost of \$10 per foot is \$200,000. The estimated cost of preparing, transporting and treating the ore sample is \$125,000 to \$200,000; in addition revisions in and additions to the pilot plants in connection therewith are estimated to cost about \$250,000.

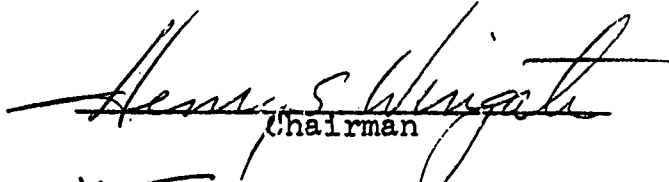
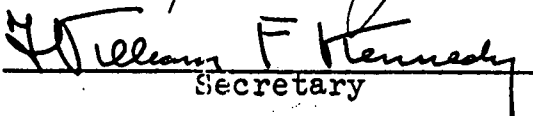
Sec. 14. Royalty Adjustment. If the Lessee shall have sunk a shaft for underground exploration or development or shall have otherwise commenced commercial development of the premises leased under this lease (or the companion lease issued to Lessee this day) within five years after the Regional Mining Supervisor shall have determined that the Federal and State governments have granted all necessary rights and authorizations for the construction, operation and maintenance of the leased premises, the rate of royalty payable under Section 2(b) with respect to the second ten years of the primary lease term shall be 4% in lieu of 4-1/2% as provided therein and the rates of royalty set forth in Section 5 shall not exceed (i) 4-1/2% during the first ten-year renewal

period, (ii) 5-1/2% during the second ten-year renewal period, and (iii) 6% during the third ten-year renewal period.

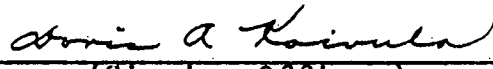
SIGNATURE OF LESSEE(S)

THE INTERNATIONAL NICKEL  
COMPANY, INC.

By

  
Chairman  
  
Secretary

THE UNITED STATES OF AMERICA

  
(Signing Officer)

Land Office Manager  
Eastern States Office  
(Title)

JUN 14 1966  
(Date)

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If this lease is executed by a corporation, it must bear the corporate seal.

#### EQUAL OPPORTUNITY

(a) The Nondiscrimination Clause, regarding "Equal Opportunity," in the attached mineral permit or lease, is amended by deleting references to the President's Committee on Equal Employment Opportunity, Executive Order No. 10925 of March 6, 1961, as amended, and section 303 of Executive Order No. 10925 of March 6, 1961, as amended; and substituting therefor the Secretary of Labor, Executive Order No. 11246 of September 24, 1965, and section 204 of Executive Order No. 11246 of September 24, 1965, respectively.

(b) In accordance with regulations of the Secretary of Labor, the rules, regulations, orders, instructions, designations, and other directives referred to in section 403(b) of Executive Order No. 11246, remain in effect and, where applicable, shall be observed in the performance of this contract until revoked or superseded by appropriate authority.

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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

MINERAL LEASE

This lease entered into on the 1st day of June, 1966, between the United States of America, as Lessor, through the Bureau of Land Management, and The International Nickel Company, Inc., a Delaware corporation with offices at 67 Wall Street, New York, New York, as Lessee, pursuant to the authority set out in, and subject to, Section 402 of the President's Reorganization Plan No. 3 of 1946, 60 Stat. 1099, and the Act of June 30, 1950, 64 Stat. 311, and to all regulations of the Secretary of the Interior now in force when not inconsistent with any of the provisions herein.

WITNESSETH:

Sec. 1. (a) Rights of Lessee. In consideration of the rents and royalties to be paid and conditions and covenants to be observed as herein set forth the Lessor grants to the Lessee, subject to all privileges and uses heretofore duly authorized and prior valid claims, the exclusive right to mine, remove, and dispose of all the copper and/or nickel minerals and associated minerals and, with the exception of oil, gas, oil shale, coal, phosphate, potassium, sodium, or sulphur, any other minerals in, upon, or under the following described lands in the United States, in the State of Minnesota:

In Lake County:

Township 62 North, Range 10 West of the Fourth Principal Meridian:

Section 19, All  
Section 20, SW-1/4  
Section 29, N-1/2  
Section 30, N-1/2  
Lot 3 (NW-1/4 of SW-1/4)

Township 62 North, Range 11 West of the Fourth Principal Meridian:

Section 24, Lot 7  
SE-1/4 of SW-1/4  
S-1/2 of SE-1/4  
Section 25, N-1/2  
W-1/2 of SW-1/4 [undivided one-half interest]  
NE-1/4 of SE-1/4  
Section 26, S-1/2 of NE-1/4  
NE-1/4 of SW-1/4  
E-1/2 of SE-1/4 [undivided one-half interest]

containing ~~2,326.40~~ acres, more or less, together with the right

2,334.71 GROSS

2,254.71 NET

SEE DECISION 9-1-66



to construct and maintain thereon such structures and other facilities as may be necessary or convenient for the mining, preparation, and removal of said minerals, for a period of twenty (20) years with a right in the Lessee to renew the same for successive periods of ten (10) years each in accordance with regulation 43 CFR § 3221.4(f) and the provisions of this lease.

(b) Authorized Agency Representative. The United States agency having administrative control over the surface use of the land is the Department of Agriculture and its authorized agency representative, hereinafter called the "Authorized Officer," to whom inquiries should be addressed is the Supervisor, Superior National Forest at Duluth, Minnesota.

Sec. 2. In consideration of the foregoing, the Lessee agrees:

(a) Rentals. To pay to the Lessor annually in advance, beginning with the date of this lease, rental of one dollar (\$1.00) for each acre or fraction thereof for each lease year until production commences, the rental payment for the year in which production commences to be credited on royalties that accrue during that lease year.

(b) Royalty. To pay the Lessor within 30 days after the end of each period prescribed in subsection (e) of this section a royalty (i) at the rate of 4% during the first ten years of the primary term and (ii) at the rate of 4-1/2% during the second 10 years of the primary term, of the gross value of the minerals mined hereunder which are shipped to the concentrating mill during each such period. Said value for the purposes of this Agreement shall be taken to be one-third of the market prices of a quantity of fully-refined copper and of a quantity of fully-refined nickel equal to the respective quantities of unrefined copper and unrefined nickel contained in said minerals so shipped to the concentrating mill.

(c) Minimum royalty. Beginning after the tenth year of the lease, except with respect to any periods during which operations are interrupted by strikes, the elements or casualties not attributable to the Lessee, to mine each year from the area covered by the lease a quantity of the leased minerals such that the royalties payable for said year under subsections (b) and (d) hereof will during the primary term of the lease be at least equal to \$5 per annum per acre included in the leased premises at the beginning of such year, and during each renewal period of the lease be at least equal to \$10 per annum per acre included in the leased premises at the beginning of such year; or in lieu thereof to pay the Lessor as royalty within 30 days after the end of such year that amount which, when added to the royalties, if any, payable for said year under subsections (b) and (d) hereof, will equal the minimum royalty for that year herein provided. Lessor may in its discretion, waive, reduce, or suspend the minimum royalty payment for reasonable periods of time in the interest of conservation or when such action does not adversely affect the interest of the United States of America in accordance with the regulation 43 CFR § 3222.6-2.

(d) Additional royalty. (1) In order to provide a royalty in respect of any associated products (as hereinafter defined), to pay the Lessor within 30 days after the end of each period prescribed in subsection (e) of this section an additional royalty of 0.3% of the gross value of the minerals mined under this lease (determined on the basis of their copper and nickel content as provided in subsection (b) of this section) which are shipped to the concentrating mill during such



period. During the first ten years of the lease such additional royalty shall not be payable if the Lessee demonstrates that no associated products are being recovered from the minerals mined under this lease, but beginning after the tenth year of the lease, such additional royalty shall be payable whether or not associated products are recovered from the minerals mined under this lease.

(2) The Lessee will also pay the Lessor within 90 days after the end of each lease year a further additional royalty of 1% of the amount, if any, by which the gross value of associated products exceeds 20% of the aggregate market price as fully-refined metals of the quantity of copper and nickel contained in the minerals mined under this lease which are shipped to the concentrating mill during such lease year. At the request of either party following any lease year for which said 1% royalty has been payable and the gross value of associated products exceeds 30% of the said aggregate market price, representatives of the Lessor and the Lessee shall meet at a mutually agreeable time to consider and decide whether additional royalty for associated products shall continue to be payable as provided in this subsection (d), or shall (in lieu thereof) be payable on such basis as may be negotiated. In connection with such meeting the Lessee will make a reasonable investigation to ascertain insofar as practicable the volume of associated products which appear to be currently recovered from the minerals mined under this lease, and will provide the Lessor with the results of this investigation.

(3) For purposes of this agreement, the term "associated products" shall mean (i) fully-refined chemical elements (other than copper and nickel) not further processed and (ii) end products containing such elements produced by the Lessee (prior to full refining) for their value as such (other than products valuable chiefly by reason of their copper and/or nickel content), which are, in either case, recovered by the Lessee from minerals mined under this lease and sold or used by the Lessee during the lease year for which additional royalty, if any, is due; and the gross value of such products shall be taken to be the aggregate of the market prices of the respective quantities of associated products so sold or used by the Lessee.

(e) Statement. To furnish for each month or such longer period as may be prescribed by the Regional Mining Supervisor of the Geological Survey, statements in detail in such form as may be prescribed by him, of the amount and value under subsection (b) of this section of the minerals mined hereunder which are shipped to the concentrating mill during such period, for use in determining royalties, such statements to be furnished within 30 days from the close of such period. Falsification of such statements shall be grounds for cancellation of the lease.

(f) Market prices. For the purposes of this section the "market price of fully-refined copper" per pound shall be the average of the monthly average prices per pound for Domestic Refinery Electrolytic Copper in carload lots, f.o.b. Atlantic Seaboard refineries, published in E. & M. J. Metal and Mineral Markets for the period for which the royalty is being computed, and the "market price of fully-refined nickel" per pound shall be the average of the monthly average prices per pound for nickel (i.e., electrolytic nickel cathodes) in carload lots, f.o.b. Port Colborne, Ontario, Canada, United States import duty (if any) included, published in E. & M. J. Metal and Mineral Markets for the period for which royalty is being computed; and the respective "market prices of associated products" per unit

shall be the average of the monthly average prices per unit for such respective products in their usual and customary shipping quantities, f.o.b. their usual and customary place of disposal, published in E. & M. J. Metal and Mineral Markets for the period for which additional royalty, if any, is being computed.

(g) Bond. To furnish and maintain a bond in the sum of \$ 10,000.00 conditioned upon compliance with the terms and conditions of this lease, and to increase the amount thereof or furnish such other bond as may be required.

(h) Inspection. To permit at all reasonable times: (1) inspection by any authorized officer of the leased premises and all surface and underground improvements, works, machinery, equipment, and all books and records pertaining to operations and surveys or investigations under this lease; and (2) the Lessor to make copies of and extracts from any or all books and records pertaining to operations under this lease.

(i) Maps--Reports. To furnish, in duplicate, to the Regional Mining Supervisor, at such times as he may require, a plat in the manner and form prescribed by him showing prospecting and development work and improvements on the leased land and other related information, with a report as to all buildings, structures, and other works or equipment, situated elsewhere and owned or operated in conjunction with, or as a part of the operations conducted hereunder.

(j) To comply with all regulations of the Secretary of the Interior and the Secretary of Agriculture applicable to the leased premises which are under his jurisdiction; and to conduct operations in an orderly manner and in accordance with regulations in 30 CFR, Part 2250, and the applicable Federal and State laws; and to exercise reasonable diligence, skill, and care in the operation of the property; and to carry on all operations in accordance with approved methods and practices, having due regard for the prevention of damage to mineral deposits, water horizons and property, injury to life and health, and economic waste. *7-11-66 per memo from Legal Dept. Mining Staff (7226) dtg 7-5-66*

(k) Taxes. To pay when due all taxes lawfully assessed and levied under the laws of the State or the United States upon improvements, output of mines, and other rights, property, and assets of the Lessee.

(l) Deliver Premises. To deliver up to the Lessor in good order and condition and subject to the provisions of Section 9 hereof on the termination of this lease as a result of forfeiture thereof the lands covered thereby, including all underground timbering and such other supports and structures as are necessary for the preservation of the mine.

(m) Assignment. Not to assign this lease, or any interest therein, whether by direct assignment, operating agreement, working or royalty interest, or otherwise, nor sublet any portion of the leased premises, except with the approval in writing of the Lessor. All such assignments or subleases must be submitted in triplicate within 90 days from the date of execution and must contain all of the terms and conditions agreed upon by the parties thereto. Not to create overriding royalties in excess of those authorized by regulation 43 CFR § 3226.1.

An assignment of all or part of the record title to a portion of the acreage in the lease shall separate the lease into separate leaseholds and the terms hereof shall apply

otherwise provided by law.

(7) The Lessee will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the President's Committee on Equal Employment Opportunity issued pursuant to section 303 of Executive Order No. 10925 of March 6, 1961, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Lessee will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the Lessee becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Lessee may request the United States to enter into such litigation to protect the interests of the United States.

(o) Payments. Rentals under this lease shall be paid to the Manager of the proper Land Office, except that when this lease becomes productive the rentals and royalties shall be paid to the Regional Mining Supervisor of the United States Geological Survey, with whom all reports concerning operations under the lease shall be filed. All remittances to the Bureau of Land Management shall be made payable to the Bureau of Land Management, those to the Geological Survey shall be made payable to the United States Geological Survey.

Sec. 3. Lessee further agrees:

(a) Protection of Property. To conduct all operations hereunder with due regard for good land management, not to cut or destroy timber without previous permission from the Authorized Officer and to pay for such timber at rates prescribed by him; to avoid damage to improvements, timber, crops, or other cover; unless otherwise authorized by the Authorized Officer, not drill any well, carry on operations, make excavations, construct tunnels, drill, or otherwise disturb the surface of the lands within 200 feet of any building thereon and whenever required in writing by the Authorized Officer, and upon any partial or total relinquishment, cancellation or termination of this lease as to that portion of the land to which his rights have terminated, to fence or fill all sump holes, ditches and other excavations, remove or cover all debris, and so far as reasonably possible, reseed or otherwise restore the surface of the lands to their former condition, or to a productive or other condition satisfactory to the Authorized Officer, including the removal of structures as and if required, and when required by such Officer to bury all pipelines below plow depth.

(b) Fire precautions. To do all in his power to prevent and suppress fires on the land and vicinity, and to require his employees, contractors, and subcontractors to do likewise. Unless prevented by circumstances over which he has no control, to place his employees, contractors, and subcontractors at the disposal of the Authorized Officer for the purpose of fighting fires on or originating on the land or on adjacent areas or caused by the negligence of the Lessee or his employees, contractors, and subcontractors, with the understanding that payment for such services shall be made at rates to be determined by such Authorized Officer but not less than the current rates of pay prevailing in the vicinity for services of a similar character: Provided, that if the

separately to the segregated portions. Advance annual rental payments, if previously terminated, shall be resumed as to an undeveloped segregated portion on the next anniversary date of the lease; the minimum royalty payment herein specified shall apply separately to the segregated portions and the time allowed within which to commence operations on an undeveloped segregated portion shall be such reasonable period as shall be prescribed by the Lessor at the time the assignment is approved.

(n) Nondiscrimination Clauses. In connection with the performance of work under this contract, the Lessee agrees as follows:

(1) The Lessee will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Lessee will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Lessee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the authorized contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The Lessee will, in all solicitations or advertisements for employees placed by or on behalf of the Lessee state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

(3) The Lessee will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the said labor union or workers' representative of the Lessee's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Lessee will comply with all provisions of Executive Order No. 10925 of March 6, 1961, as amended, and of the rules, regulations, and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.

(5) The Lessee will furnish all information and reports required by Executive Order No. 10925 of March 6, 1961, as amended, and by the rules, regulations, and orders of the said Committee, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Committee for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Lessee's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the Lessee may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 10925 of March 6, 1961, as amended, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order or by rule, regulation, or order of the President's Committee on Equal Employment Opportunity, or as

Lessee, his employees, contractors, or subcontractors, or employees of any of them, caused or could have prevented the origin or spread of said fire or fires, no payment shall be made for services so rendered. During periods of serious fire danger, as may be specified by the Authorized Officer, the Lessee shall prohibit smoking and the building of camp and lunch fires by his employees, contractors, and subcontractors, within the leased area except at established camps, and shall enforce this prohibition by all means within his power: Provided, that the Authorized Officer may designate safe places where, after all inflammable material has been cleared away, campfires may be built for the purpose of heating lunches and where, at the option of the Lessee, smoking may be permitted. The Lessee will not burn rubbish, trash, or other inflammable materials except with the consent of the Authorized Officer. The Lessee shall build or construct such fire lines or do such clearing on the land as the Authorized Officer decides is essential for forest, brush, and grass fire prevention which is or may be necessitated by the exercise of the privileges authorized by this lease, and shall maintain such fire tools at his headquarters or at the appropriate location on the land as are deemed necessary by such Officer.

(c) Approval of Construction. Not to clear or use the land for development or for construction purposes of any kind until a plan of construction and development therefor has been approved by the Authorized Officer and that in the location, design, construction and maintenance of all authorized works, camps, buildings, plants, waterways, roads, telegraph or telephone lines, pipelines, reservoirs, tanks, pumping stations, or other structures or clearance, Lessee shall do all things reasonably necessary to prevent or reduce scarring and erosion of the land, pollution of the water resources and any damage to the watershed.

(d) Damage to Property. To pay the Lessor or its tenant, as the case may be, for any and all damage to or destruction of property caused by the Lessee's operations hereunder; to save and hold the Lessor or the surface owner or their tenants harmless from all damage or claims for damage to persons or property resulting from the Lessee's operations under this lease; and where the surface of the leased land is owned by other than the Lessor, to pay such owner, or his tenant, as the case may be, for damage or injury to livestock, crops, trees, pipelines, buildings, and other improvements of the leased lands. That where construction, operation, or maintenance of any of the facilities on or connected with this lease causes damage to the watershed or pollution of the water resources, to repair such damage and to take such corrective measures as are required by the Authorized Officer, including the reseeding or other restoration of the vegetative cover.

(e) Protection of Livestock; Access to Leased Lands. To install and maintain cattle guards to prevent the passage of livestock in any openings made in fences by the Lessee or his contractors to provide access to the lands covered by this lease for automotive and other equipment.

(f) Authorized Officer. All inquiries relating to this section should be addressed to the Authorized Officer named in Section 1(b) of this lease.

Sec. 4. Lessee--Agent. Prior to the beginning of operations the Lessee shall appoint and maintain at all times during the term of this lease a local agent upon whom may be served written orders or notices respecting matters contained in this lease, and shall inform the Authorized Officer and the Regional

Mining Supervisor of the Geological Survey, in writing, of the name and address of such agent. If a substitute agent is appointed, the Lessee shall immediately so inform the said Officers.

Sec. 5. Renewal Terms. The Lessor shall have the right to reasonably readjust and fix royalties payable hereunder at the end of the primary term of this lease and thereafter at the end of each successive renewal thereof unless otherwise provided by law at the time of the expiration of any such period, and to readjust other terms and conditions of the lease, including the revision of or imposition of stipulations for the protection of the surface of the land as may be required by the agency having jurisdiction thereover; provided, however, that the Lessee shall have the right to three successive ten-year renewals of this lease with any readjustment in the royalties payable hereunder limited to that hereinafter provided and with no readjustment of any of the other terms and conditions of this lease unless at the end of the primary term of this lease the Lessee shall not have begun production, either hereunder or under the companion lease granted to the Lessee this day. The Secretary of the Interior may grant extensions of time for commencement of production in the interest of conservation or upon a satisfactory showing by the Lessee that the lease cannot be successfully operated at a profit or for other reasons, and the Lessee shall be entitled to renewal as herein provided without readjustment except of royalties payable hereunder if at the end of the primary or renewal period such an extension shall be in effect, but the Lessee shall not be entitled to subsequent such renewals unless it shall have begun production within the extended time. If the Lessee shall be entitled to renewal without readjustment except of royalties payable hereunder, the Secretary of the Interior may in his discretion increase the royalty rate prescribed in subsection (b) of Section 2 up to, but not exceeding (i) 5% during the first ten-year renewal period, (ii) 6% during the second ten-year renewal period, and (iii) 7% during the third ten-year renewal period. The extent of readjustment of royalty, if any, to be made under this section shall be determined prior to the commencement of the renewal period.

Sec. 6. The Lessor expressly reserves:

(a) Rights Reserved. The right to permit for joint or several use easements or rights-of-way, including easements in tunnels upon, through, or in the land leased, occupied, or used as may be necessary or appropriate to the working of the same or other lands, and the preparation and shipment of the products thereof by or under authority of the Government, its Lessees or Permittees, and for other public purposes.

(b) Waiver of Conditions. The right to waive any breach of the covenants and conditions contained herein, but any such waiver shall extend only to the particular breach so waived and shall not limit the rights of the Lessor with respect to any future breach; nor shall the waiver of a particular cause of forfeiture prevent cancellation of this lease for any other cause, or for the same cause occurring at another time.

Sec. 7. It is mutually agreed:

(a) Mining Methods. That this lease does not authorize the mining or removal of the mineral deposits by stripping, rim cutting, or open pit methods without the prior written



approval of the Authorized Officer and on such conditions as he may prescribe.

(b) Reduction or Smelting of Ores. That the reduction or smelting of ores on the leased land is expressly prohibited in the absence of an agreement between the Lessee and the Authorized Officer authorizing such use of the surface of the land and providing for the necessary protection of life and property. Such agreement shall contain all of the terms and conditions under which the reduction or smelting of ores may be carried on and any violation of that agreement shall be considered a violation of the terms of this lease for the purpose of Section 10.

(c) Uses and Disposition of Surface. That the leased land shall be subject at all times to any other lawful uses or sale by the United States, its Lessees, Permittees, Licensees, and Assigns; provided that such uses or sale shall not prevent, obstruct, or unduly interfere with any privilege granted under this lease; Provided, that the Lessee shall recognize existing uses and commitments in the form of grazing, timber cutting, and special use permits, water developments, ditch, road, trail, pipeline, telephone and telegraph lines, fence, rights-of-way, and other similar improvements, and to conduct his operations so as to interfere as little as possible with the rights and privileges granted by these permits or with other existing uses.

(d) Granting Leases for Other Minerals. That the granting of this lease will not preclude the issuance of other leases of the same land for the purpose of mining and extracting oil, gas, oil shale, coal, phosphate, potassium, sodium, and sulphur.

Sec. 8. Relinquishment of Lease. The Lessee may surrender this lease or any one or more legal subdivisions included in the leased premises. If the lands are not described by legal subdivision, a partial relinquishment must describe definitely the lands surrendered and give the exact area thereof. A relinquishment must be filed in triplicate in the proper Land Office. Upon its acceptance, it will be effective as of the date it is filed, subject to the continued obligation of the Lessee and his surety to make payment of all accrued rentals and royalties, and to provide for the preservation of any mines or productive works or permanent improvements on the lands in accordance with the regulations and terms of the lease, and for the faithful compliance of all the terms of the lease.

Sec. 9. Removal of Equipment, etc., on Termination of Lease. On termination of this lease, by surrender, forfeiture, or otherwise, the Lessee shall have the privilege at any time within a period of one year thereafter of removing from the premises all machinery, equipment, tools, and materials, other than underground timbering placed by the Lessee in or on the leased lands, which are not necessary for the preservation of the mine. Any materials, tools, appliances, machinery, structures, and equipment, subject to removal as above provided, which are allowed to remain on the leased land shall become the property of the Lessor on expiration of the one-year period or such extension thereof as may be granted by the Lessor, but the Lessee shall remove any or all of such property when so directed by the Lessor.

Sec. 10. Proceedings in Case of Default. If the Lessee does not comply with the applicable regulations made a part hereof or the terms of this lease and such default continues for a period of 30 days, or such longer period as the Lessor determines may be reasonably required to correct the default, after service of written notice thereof by the Lessor, the Lessor may institute appropriate proceedings in a court of competent jurisdiction for the forfeiture and cancellation of this lease or seek such other administrative, legal or equitable remedies as may be appropriate. Furthermore, if the Lessee fails to take prompt and necessary steps to prevent loss or damage to the mine, property, or premises, or danger to the employees, the Lessor may enter on the premises and take such measures as may be deemed necessary to prevent such loss or damage, or to correct the dangerous or unsafe condition of the mine or works thereof, which shall be at the expense of the Lessee, but the Lessee shall not be held responsible for delays or casualties occasioned by causes beyond the Lessee's control.

Sec. 11. Heirs and Successors-in-Interest. Each obligation hereunder shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. Unlawful Interest. It is also further agreed that no Member of, or Delegate to, Congress, or Resident Commissioner, after his election or appointment, or either before or after he has qualified and during his continuance in office, and that no officer, agent, or employee of the Department of the Interior, except as provided in 43 CFR 7.4(a)(1), shall be admitted to any share or part in this lease or derive any benefit that may arise therefrom; and the provisions of Section 3741 of the Revised Statutes of the United States, as amended (41 U.S.C., Sec. 22), and sections 431, 432, and 433, Title 18 U.S.C., relating to contracts, enter into and form a part of this lease so far as the same may be applicable.

Sec. 13. Special Stipulations.

(a) In conformity with the principles of the Shipstead-Newton-Nolan Act of July 10, 1930 (16 U.S.C. 577), no occupancy or use of the surface within 400 feet of the shoreline of any lake or stream is authorized without the written approval of the Authorized Officer.

(b) Any and all operations authorized by this lease shall be done in accordance with a plan which must be submitted in triplicate and approved in writing by the Authorized Officer before such operations are begun. The operating plan will contain all such provisions as the Authorized Officer may reasonably determine are needed to maintain proper administration of the lands and surface resources. Where appropriate, depending upon the location and type of operation, the Authorized Officer may require the plan to contain provisions concerning the following matters:

1. The location and extent of areas to be occupied during operations.
2. The methods to be used in the operations.
3. The size and type of equipment to be used in the operations.
4. The capacity, character, standards of construction and size of all structures and facilities to be built.
5. The location and size of areas upon which vegetation will be destroyed or soil will be laid bare.

6. The steps which will be taken to prevent and control soil erosion.
7. The steps which will be taken to prevent water pollution.
8. The character, amount, and time of use of explosives or fire, including safety precautions which will be taken during their use.
9. The program proposed for rehabilitation and revegetation of disturbed lands.

If later operations require departure from or additions to the approved plan, revisions or amendments will be submitted in triplicate, with statements of the reasons for changes or additions, to the Authorized Officer for approval. Any and all operations conducted in advance of approval of an original, revised, or amended operating plan, or which are not in accord with an approved plan, constitute violations of the terms of this lease.

(c) If minerals from the leased premises be shipped outside the United States for treatment, Lessee shall, upon the call of the Lessor, and provided that there be no imposition of tariff, cause to be returned for sale or for use in the operations of the Lessee or of its affiliates in the United States quantities of copper equal to the quantities recovered from the minerals so shipped during the time of the call. The copper so returned shall be priced on no different basis than would then be applicable under circumstances prevailing had it been produced entirely within the United States and sold by a domestic producer, so that the prices will be competitive with those of domestic producers.

(d) Within 12 months after approval by the Authorized Officer Lessee will carry out a program in respect of this lease and the companion lease issued this day of drilling to ascertain the facts which will be essential to instituting production, and also will ship to the pilot plants of its parent company in Ontario, Canada, not less than 1,000 tons of ore to seek appropriate extractive metallurgical procedures therefor. The anticipated cost of the drilling program, to cover from 10,000 to 20,000 feet of drilling at an average cost of \$10 per foot is \$200,000. The estimated cost of preparing, transporting and treating the ore sample is \$125,000 to \$200,000; in addition revisions in and additions to the pilot plants in connection therewith are estimated to cost about \$250,000.

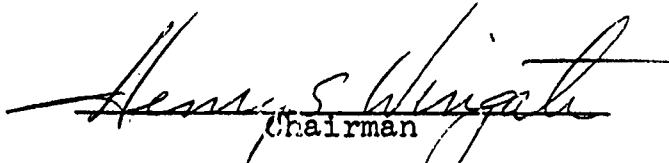
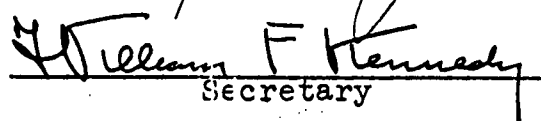
Sec. 14. Royalty Adjustment. If the Lessee shall have sunk a shaft for underground exploration or development or shall have otherwise commenced commercial development of the premises leased under this lease (or the companion lease issued to Lessee this day) within five years after the Regional Mining Supervisor shall have determined that the Federal and State governments have granted all necessary rights and authorizations for the construction, operation and maintenance of the leased premises, the rate of royalty payable under Section 2(b) with respect to the second ten years of the primary lease term shall be 4% in lieu of 4-1/2% as provided therein and the rates of royalty set forth in Section 5 shall not exceed (i) 4-1/2% during the first ten-year renewal

period, (ii) 5-1/2% during the second ten-year renewal period, and (iii) 6% during the third ten-year renewal period.


SIGNATURE OF LESSEE(S)

THE INTERNATIONAL NICKEL  
COMPANY, INC.

By

  
Chairman  
  
Secretary

THE UNITED STATES OF AMERICA

  
(Signing Officer)

Land Office Manager  
Eastern States Office  
(Title)

JUN 14 1966  
(Date)

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If this lease is executed by a corporation, it must bear the corporate seal.

EQUAL OPPORTUNITY

(a) The Nondiscrimination Clause, regarding "Equal Opportunity," in the attached mineral permit or lease, is amended by deleting references to the President's Committee on Equal Employment Opportunity, Executive Order No. 10925 of March 6, 1961, as amended, and section 303 of Executive Order No. 10925 of March 6, 1961, as amended; and substituting therefor the Secretary of Labor, Executive Order No. 11246 of September 24, 1965, and section 204 of Executive Order No. 11246 of September 24, 1965, respectively.

(b) In accordance with regulations of the Secretary of Labor, the rules, regulations, orders, instructions, designations, and other directives referred to in section 403(b) of Executive Order No. 11246, remain in effect and, where applicable, shall be observed in the performance of this contract until revoked or superseded by appropriate authority.

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

DEC 16 2003 Serial Number

ROLLA, MISSOURI 65401

PREFERENCE RIGHT **LEASE** RENEWAL

MNES 1352

## PART I. LEASE RIGHTS GRANTED.

This ☐ Lease ☒ Lease Renewal entered into by and between the UNITED STATES OF AMERICA, through the Bureau of Land Management, hereinafter called lessor, and (Name and Address)

American Copper & Nickel Company  
922 19th Street  
Golden, Colorado 80401

JAN - 1 2004

hereinafter called lessee, is effective (date) , for a period of 10 years,

Sodium, Sulphur, Hardrock -

☒ with preferential right in the lessee to renew for successive periods of 10 years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.

Potassium, Phosphate, Gilsomite -

☐ and for so long thereafter as lessee complies with the terms and conditions of this lease which are subject to readjustment at the end of each year period, unless otherwise provided by law.

Sec. 1. This lease is issued pursuant and subject to the terms and provisions of the:

☐ Mineral Leasing Act of 1920, as amended, and supplemented, 41 Stat. 437, 30 U.S.C. 181-287, hereinafter referred to as the Act;

☐ Mineral Leasing Act for Acquired Lands, Act of August 7, 1947, 61 Stat. 913, 30 U.S.C. 351-359;

☒ Reorganization Plan No. 3 of 1946, 60 Stat. 1099 and 43 U.S.C. 1201;

☐ (Other)

to the regulations and general mining orders of the Secretary of the Interior in force on the date this lease issued.

Sec. 2. Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to explore for, drill for, mine, extract, remove, beneficiate, concentrate, or otherwise process and dispose of the copper deposits nickel

& associated minerals hereinafter referred to as "leased deposits," in, upon, or under the following described lands:

SEE ATTACHED

containing 2,610.07 acres, more or less, together with the right to construct such works, buildings, plants, structures, equipment and appliances and the right to use such on-lease rights-of-way which may be necessary and convenient in the exercise of the rights and privileges granted, subject to the conditions herein provided.

Phosphate -

☐ In accordance with Section 11 of the Act (30 U.S.C. 213), lessee may use deposits of silica, limestone, or other rock in the processing or refining of the phosphates, phosphate rock, and associated or related minerals mined from the leased lands or other lands upon payments of royalty as set forth on the attachment to this lease. (Phosphate leases only.)

In Lake County:

Township 61 North, Range 11 West of the Fourth Principal Meridian:

Section 3, Lot 2  
SW-1/4 of SW-1/4  
S-1/2 of SE-1/4

Section 5, Lots 1 and 2  
S-1/2 of NE-1/4  
Lot 6  
Lot 7  
NE-1/4 of SW-1/4  
S-1/2 of SW-1/4  
N-1/2 of SE-1/4

Section 6, Lots 13, 22, 23 and 24

Section 7, Lots 1, 2, 3, 4, 9, 10, 12, 15, 16 and 19

Section 8, Lots 2 and 6

Section 9, All except W-1/2 of NW-1/4

Section 18, Lots 2, 7, 9, 12, 13, 14, 15, 16, 17, 18  
19 and 20

Section 19, Lots 2, 3, 4, 5, 7 and 8

Township 62 North, Range 11 West of the Fourth Principal Meridian:

Section 27, SE-1/4 of SW-1/4

Section 32, Lot 4

Section 33, Lots 6 and 7

Section 34, NW-1/4

In St. Louis County:

Township 61 North, Range 12 West of the Fourth Principal Meridian:

Section 25, Lot 2  
SW-1/4 of SW-1/4



## PART II. TERMS AND CONDITIONS

Sec. 1. (a) RENTAL RATE - Lessee shall pay lessor rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate indicated below:

*Sulphur, Gilsonite -*

☐ 50 cents for the first lease year and each succeeding lease year;

*Hardrock -*

☐ \$1 for the first lease year and \$1 for each succeeding lease year;

*Phosphate -*

☐ 25 cents for the first lease year, 50 cents for the second and third lease years, and \$1 for each and every lease year thereafter;

*Potassium, Sodium -*

☐ 25 cents for the first calendar year or fraction thereof, 50 cents for the second, third, fourth, and fifth calendar years respectively, and \$1 for the sixth and each succeeding calendar year; or

*Sodium, Sulphur, Asphalt, and Hardrock Renewal Leases -*

☒ \$ 1.00 for each lease year;

(b) RENTAL CREDITS - The rental for any year will be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

Sec. 2. (a) PRODUCTION ROYALTIES - Lessee shall pay lessor a production royalty in accordance with the attached schedule. Such production royalty is due the last day of the month next following the month in which the minerals are sold or removed from the leased lands.

\*(b) MINIMUM ANNUAL PRODUCTION AND MINIMUM ROYALTY - (1) Lessee shall produce on an annual basis a minimum amount of copper, nickel & assoc. mins., except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. Lessor may permit suspension of operations under the lease when marketing conditions are such that the lease cannot be operated except at a loss. (2) At the request of the lessee, made prior to initiation of the lease year, the authorized officer may allow in writing the payment of a \$3.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year. Minimum royalty payments shall be credited to production royalties for that year.

Sec. 3. REDUCTION AND SUSPENSION - In accordance with Section 39 of the Mineral Leasing Act, 30 U.S.C. 209, the lessor reserves the authority to waive, suspend or reduce rental or minimum royalty, or to reduce royalty, and reserves the authority to assent to or order the suspension of this lease.

Sec. 4. BONDS - Lessee shall maintain in the proper office a lease bond in the amount of \$ 5,000.00, or in lieu thereof, an acceptable statewide or nationwide bond. The authorized officer may require an increase in this amount when additional coverage is determined appropriate.

Sec. 5. DOCUMENTS, EVIDENCE AND INSPECTION - At such times and in such form as lessor may prescribe, lessee

shall furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.

Lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of lessor, the leased premises and all surface and underground improvements, work, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.

Lessee shall either submit or provide lessor access to and copying of documents reasonably necessary to verify lessee compliance with terms and conditions of the lease.

While this lease remains in effect, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Sec. 6. DAMAGES TO PROPERTY AND CONDUCT OF OPERATIONS - Lessee shall exercise reasonable diligence, skill, and care in the operation of the property, and carry on all operations in accordance with approved methods and practices as provided in the operating regulations, having due regard for the prevention of injury to life, health or property, and of waste or damage to any water or mineral deposits.

Lessee shall not conduct exploration or operations, other than casual use, prior to receipt of necessary permits or approval of plans of operations by lessor.

Lessee shall carry on all operations in accordance with approved methods and practices as provided in the operating regulations, and the approved mining plans in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, minerals, and other resources, and to other land uses or users. Lessee shall take measures deemed necessary by lessor to accomplish the intent of this lease term. Such measures may include, but are not limited to, modification to proposed siting or design of facilities, timing of operations, and specification of interim and final reclamation procedures.

Lessor reserves to itself the right to lease, sell, or otherwise dispose of the surface or other mineral deposits in the lands and the right to continue existing uses and to authorize future uses upon or in the leased lands, including issuing leases for mineral deposits not covered hereunder or the approval of easements or rights-of-way. Lessor shall condition such uses to prevent unnecessary or unreasonable interference with rights of lessee as may be consistent with concepts of multiple use and multiple mineral development.

Sec. 7. PROTECTION OF DIVERSE INTERESTS, AND EQUAL OPPORTUNITY - Lessee shall: pay when due all taxes legally assessed and levied under the laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States; maintain a safe working environment in accordance with standard industry practices; restrict the workday to not more than 8 hours in any one day for underground workers, except in emergencies; and take measures necessary to protect the health and safety of the public. No person under the age of 16 years shall be employed in any mine below the surface. To the extent that laws of the State in which the lands are

situated are more restrictive than the provisions in this paragraph, then the State laws apply.

Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec. 8. (a) TRANSFERS - This lease may be transferred in whole or in part to any person, association or corporation qualified to hold such lease interest.

(b) RELINQUISHMENT - The lessee may relinquish in writing at any time all rights under this lease or any portion thereof as provided in the regulations. Upon lessor's acceptance of the relinquishment, lessee shall be relieved of all future obligations under the lease or the relinquished portion thereof, whichever is applicable.

Sec. 9. DELIVERY OF PREMISES, REMOVAL OF MACHINERY, EQUIPMENT, ETC. - At such time as all or portions of this lease are returned to lessor, lessee shall deliver up to lessor the land leased, underground timbering, and such other supports and structures necessary for the preservation of the mine workings on the leased premises or deposits and place all wells in condition for suspension or abandonment. Within 180 days thereof, lessee shall remove from the premises all other structures, machinery, equipment, tools, and materials that it elects to or as required by the authorized officer. Any such structures, machinery, equipment, tools, and materials remaining on the leased lands beyond 180 days, or approved extension thereof, shall become the property of the lessor, but lessee shall either remove any or all such property or shall continue to be liable for the cost of removal and disposal in the amount actually incurred by the lessor. If the surface is owned by third parties, lessor shall waive the requirement for removal, provided the third parties do not object to such

waiver. Lessee shall, prior to the termination of bond liability or at any other time when required and in accordance with all applicable laws and regulations, reclaim all lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities on the leased lands, and reclaim access roads or trails.

Sec. 10. PROCEEDINGS IN CASE OF DEFAULT - If lessee fails to comply with applicable laws, now existing regulations, or the terms, conditions and stipulations of this lease, and the noncompliance continues for 30 days after written notice thereof, this lease shall be subject to cancellation by the lessor only by judicial proceedings. This provision shall not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver shall not prevent later cancellation for the same default occurring at any other time.

Sec. 11. HEIRS AND SUCCESSORS-IN-INTEREST - Each obligation of this lease shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. INDEMNIFICATION - Lessee shall indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under this lease.

Sec. 13. SPECIAL STATUTES - This lease is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151-1175), the Clean Air Act (42 U.S.C. 1857 et. seq.), and to all other applicable laws pertaining to exploration activities, mining operations and reclamation.

Sec. 14. SPECIAL STIPULATIONS -

\* The terms and conditions of the production royalties remains as stated in the attached original lease agreement.

\*\* The minimum annual production and minimum royalty is \$10.00 per acre or a fraction thereof as stated in the attached original lease agreement.



Sec. 14. SPECIAL STIPULATIONS - (Cont.)

THE UNITED STATES OF AMERICA

AMERICAN COPPER & NICKEL COMPANY INC.  
Company or Lessee Name

DJ Rush  
(Signature of Lessee)

PRESIDENT  
(Title)

NOVEMBER 26, 2003  
(Date)

By

Sharon Brown  
(Signing Officer)

Authorized Officer  
(Title)

DEC 05 2003  
(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

NOTICE

The Privacy Act of 1974 and the regulations in 43 CFR 2.48(d) provides that you be furnished the following information in connection with information required under the terms of this lease.

AUTHORITY: 30 U.S.C. 181 et seq.; 43 CFR 3500.

PRINCIPAL PURPOSE: The information will be used to verify your compliance with the lease terms and in calculating royalty payments.

ROUTINE USES: (1) Evaluation of the effects of the operations on the environment. (2) Statistical reports to Congress. (3)(4) and (5) Information from the record and/or the record may be released or transferred to appropriate Federal, State or local agencies in allocating mineral revenue, for investigations of energy programs; and when relevant to civil, criminal or regulatory investigations or prosecutions, as well as routine regulatory responsibility.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of this information is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected for use in calculating royalty payments and in verification of compliance with lease terms. Response to this request is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

DEC 16 2003 Serial Number

ROLLA, MISSOURI 65401

PREFERENCE RIGHT LEASE RENEWAL

MNES 1353

## PART I. LEASE RIGHTS GRANTED.

This ☐ Lease ☒ Lease Renewal entered into by and between the UNITED STATES OF AMERICA, through the Bureau of Land Management, hereinafter called lessor, and (Name and Address)

American Copper & Nickel Company  
922 19th Street

Golden, Colorado 80401

hereinafter called lessee, is effective (date)

JAN - 1 2004

, for a period of 10 years,

Sodium, Sulphur, Hardrock -

☒ with preferential right in the lessee to renew for successive periods of 10 years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.

Potassium, Phosphate, Gilsonite -

☐ and for so long thereafter as lessee complies with the terms and conditions of this lease which are subject to readjustment at the end of each year period, unless otherwise provided by law.

Sec. 1. This lease is issued pursuant and subject to the terms and provisions of the:

☐ Mineral Leasing Act of 1920, as amended, and supplemented, 41 Stat. 437, 30 U.S.C. 181-287, hereinafter referred to as the Act;

☐ Mineral Leasing Act for Acquired Lands, Act of August 7, 1947, 61 Stat. 913, 30 U.S.C. 351-359;

☒ Reorganization Plan No. 3 of 1946, 60 Stat. 1099 and 43 U.S.C. 1201;

☐ (Other)

; and

to the regulations and general mining orders of the Secretary of the Interior in force on the date this lease issued.

Sec. 2. Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to explore for, drill for, mine, extract, remove, beneficiate, concentrate, or otherwise process and dispose of the copper deposits nickel & associated minerals hereinafter referred to as "leased deposits," in, upon, or under the following described lands:

SEE ATTACHED

containing 2,254.71 acres, more or less, together with the right to construct such works, buildings, plants, structures, equipment and appliances and the right to use such on-lease rights-of-way which may be necessary and convenient in the exercise of the rights and privileges granted, subject to the conditions herein provided.

Phosphate -

☐ In accordance with Section 11 of the Act (30 U.S.C. 213), lessee may use deposits of silica, limestone, or other rock in the processing or refining of the phosphates, phosphate rock, and associated or related minerals mined from the leased lands or other lands upon payments of royalty as set forth on the attachment to this lease. (Phosphate leases only.)

In Lake County:

Township 62 North, Range 10 West of the Fourth Principal Meridian:

Section 19, All

Section 20, SW-1/4

Section 29, N-1/2

Section 30, N-1/2

Lot 3 (NW-1/4 of SW-1/4)

Township 62 North, Range 11 West of the Fourth Principal Meridian:

Section 24, Lot 7

SE-1/4 of SW-1/4

S-1/2 of SE-1/4

Section 25, N-1/2

W-1/2 of SW-1/4 [undivided one-half interest

NE-1/4 of SE-1/4

Section 26, S-1/2 of NE-1/4

NE-1/4 of SW-1/4

E-1/2 of SE-1/4 [undivided one-half interest

## PART II. TERMS AND CONDITIONS

Sec. 1. (a) RENTAL RATE - Lessee shall pay lessor rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate indicated below:

*Sulphur, Gilsonite -*

☐ 50 cents for the first lease year and each succeeding lease year;

*Hardrock -*

☐ \$1 for the first lease year and \$1 for each succeeding lease year;

*Phosphate -*

☐ 25 cents for the first lease year, 50 cents for the second and third lease years, and \$1 for each and every lease year thereafter;

*Potassium, Sodium -*

☐ 25 cents for the first calendar year or fraction thereof, 50 cents for the second, third, fourth, and fifth calendar years respectively, and \$1 for the sixth and each succeeding calendar year; or

*Sodium, Sulphur, Asphalt, and Hardrock Renewal Leases -*

☒ \$ 1.00 for each lease year;

(b) RENTAL CREDITS - The rental for any year will be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

Sec. 2. (a) PRODUCTION ROYALTIES - Lessee shall pay lessor a production royalty in accordance with the attached schedule. Such production royalty is due the last day of the month next following the month in which the minerals are sold or removed from the leased lands.

\* (b) MINIMUM ANNUAL PRODUCTION AND MINIMUM ROYALTY - (1) Lessee shall produce on an annual basis a minimum amount of copper, nickel, & assoc. mins., except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. Lessor may permit suspension of operations under the lease when marketing conditions are such that the lease cannot be operated except at a loss. (2) At the request of the lessee, made prior to initiation of the lease year, the authorized officer may allow in writing the payment of a \$3.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year. Minimum royalty payments shall be credited to production royalties for that year.

Sec. 3. REDUCTION AND SUSPENSION - In accordance with Section 39 of the Mineral Leasing Act, 30 U.S.C. 209, the lessor reserves the authority to waive, suspend or reduce rental or minimum royalty, or to reduce royalty, and reserves the authority to assent to or order the suspension of this lease.

Sec. 4. BONDS - Lessee shall maintain in the proper office a lease bond in the amount of \$ 5,000, or in lieu thereof, an acceptable statewide or nationwide bond. The authorized officer may require an increase in this amount when additional coverage is determined appropriate.

Sec. 5. DOCUMENTS, EVIDENCE AND INSPECTION - At such times and in such form as lessor may prescribe, lessee

shall furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.

Lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of lessor, the leased premises and all surface and underground improvements, work, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.

Lessee shall either submit or provide lessor access to and copying of documents reasonably necessary to verify lessee compliance with terms and conditions of the lease.

While this lease remains in effect, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Sec. 6. DAMAGES TO PROPERTY AND CONDUCT OF OPERATIONS - Lessee shall exercise reasonable diligence, skill, and care in the operation of the property, and carry on all operations in accordance with approved methods and practices as provided in the operating regulations, having due regard for the prevention of injury to life, health or property, and of waste or damage to any water or mineral deposits.

Lessee shall not conduct exploration or operations, other than casual use, prior to receipt of necessary permits or approval of plans of operations by lessor.

Lessee shall carry on all operations in accordance with approved methods and practices as provided in the operating regulations, and the approved mining plans in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, minerals, and other resources, and to other land uses or users. Lessee shall take measures deemed necessary by lessor to accomplish the intent of this lease term. Such measures may include, but are not limited to, modification to proposed siting or design of facilities, timing of operations, and specification of interim and final reclamation procedures.

Lessor reserves to itself the right to lease, sell, or otherwise dispose of the surface or other mineral deposits in the lands and the right to continue existing uses and to authorize future uses upon or in the leased lands, including issuing leases for mineral deposits not covered hereunder or the approval of easements or rights-of-way. Lessor shall condition such uses to prevent unnecessary or unreasonable interference with rights of lessee as may be consistent with concepts of multiple use and multiple mineral development.

Sec. 7. PROTECTION OF DIVERSE INTERESTS, AND EQUAL OPPORTUNITY - Lessee shall: pay when due all taxes legally assessed and levied under the laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States; maintain a safe working environment in accordance with standard industry practices; restrict the workday to not more than 8 hours in any one day for underground workers, except in emergencies; and take measures necessary to protect the health and safety of the public. No person under the age of 16 years shall be employed in any mine below the surface. To the extent that laws of the State in which the lands are

situated are more restrictive than the provisions in this paragraph, then the State laws apply.

Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec. 8. (a) TRANSFERS - This lease may be transferred in whole or in part to any person, association or corporation qualified to hold such lease interest.

(b) RELINQUISHMENT - The lessee may relinquish in writing at any time all rights under this lease or any portion thereof as provided in the regulations. Upon lessor's acceptance of the relinquishment, lessee shall be relieved of all future obligations under the lease or the relinquished portion thereof, whichever is applicable.

Sec. 9. DELIVERY OF PREMISES, REMOVAL OF MACHINERY, EQUIPMENT, ETC. - At such time as all or portions of this lease are returned to lessor, lessee shall deliver up to lessor the land leased, underground timbering, and such other supports and structures necessary for the preservation of the mine workings on the leased premises or deposits and place all wells in condition for suspension or abandonment. Within 180 days thereof, lessee shall remove from the premises all other structures, machinery, equipment, tools, and materials that it elects to or as required by the authorized officer. Any such structures, machinery, equipment, tools, and materials remaining on the leased lands beyond 180 days, or approved extension thereof, shall become the property of the lessor, but lessee shall either remove any or all such property or shall continue to be liable for the cost of removal and disposal in the amount actually incurred by the lessor. If the surface is owned by third parties, lessor shall waive the requirement for removal, provided the third parties do not object to such

waiver. Lessee shall, prior to the termination of bond liability or at any other time when required and in accordance with all applicable laws and regulations, reclaim all lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities on the leased lands, and reclaim access roads or trails.

Sec. 10. PROCEEDINGS IN CASE OF DEFAULT - If lessee fails to comply with applicable laws, now existing regulations, or the terms, conditions and stipulations of this lease, and the noncompliance continues for 30 days after written notice thereof, this lease shall be subject to cancellation by the lessor only by judicial proceedings. This provision shall not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver shall not prevent later cancellation for the same default occurring at any other time.

Sec. 11. HEIRS AND SUCCESSORS-IN-INTEREST - Each obligation of this lease shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. INDEMNIFICATION - Lessee shall indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under this lease.

Sec. 13. SPECIAL STATUTES - This lease is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151-1175), the Clean Air Act (42 U.S.C. 1857 et. seq.), and to all other applicable laws pertaining to exploration activities, mining operations and reclamation.

Sec. 14. SPECIAL STIPULATIONS -

\* The terms and conditions of the production royalties remains as stated in the attached original lease agreement.

\*\* The minimum annual production and minimum royalty is \$10.00 per acre or a fraction thereof as stated in the attached original lease agreement.



Sec. 14. SPECIAL STIPULATIONS - (Cont.)

THE UNITED STATES OF AMERICA

AMERICAN COPPER & NICKEL COMPANY INC.  
Company or Lessee Name

DJ Ruel  
(Signature of Lessee)

PRESIDENT  
(Title)

NOVEMBER 26, 2003  
(Date)

By

Sharon Brown  
(Signing Officer)

Authorized Officer  
(Title)

DEC 05 2003  
(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

NOTICE

The Privacy Act of 1974 and the regulations in 43 CFR 2.48(d) provides that you be furnished the following information in connection with information required under the terms of this lease.  
AUTHORITY: 30 U.S.C. 181 et seq.; 43 CFR 3500.

PRINCIPAL PURPOSE: The information will be used to verify your compliance with the lease terms and in calculating royalty payments.

ROUTINE USES: (1) Evaluation of the effects of the operations on the environment. (2) Statistical reports to Congress. (3)(4) and (5) Information from the record and/or the record may be released or transferred to appropriate Federal, State or local agencies in allocating mineral revenue, for investigations of energy programs; and when relevant to civil, criminal or regulatory investigations or prosecutions, as well as routine regulatory responsibility.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of this information is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected for use in calculating royalty payments and in verification of compliance with lease terms. Response to this request is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.



# United States Department of the Interior

## OFFICE OF THE SOLICITOR

1849 C STREET N.W.  
WASHINGTON, DC 20240

M-37036

**MAR - 8 2016**

### Memorandum

To: Director, Bureau of Land Management

From: Solicitor

Subject: Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-01353)

The Bureau of Land Management (BLM) has asked whether it has the discretion to grant or deny Twin Metals Minnesota's pending application for renewal of two hardrock preference right leases in northern Minnesota.<sup>1</sup> I conclude that Twin Metals Minnesota does not have a non-discretionary right to renewal, but rather the BLM has discretion to grant or deny the pending renewal application.

### Background

On October 21, 2012, Twin Metals Minnesota (TMM) submitted an application to renew two preference right leases (MNES-01352 and MNES-01353) for lands that are located near the southern boundary of the Boundary Waters Canoe Area Wilderness in northern Minnesota.<sup>2</sup>

The two leases at issue are located on acquired Weeks Act lands, as well as National Forest System lands reserved from the public domain and managed by the United States Forest Service. The Secretary's authority, delegated to the BLM, for mineral disposition on the acquired lands is in section 402 of Reorganization Plan No. 3 of 1946, 60 Stat. 1097, 1099-1100, and 16 U.S.C. § 520, which governs mineral disposition on Weeks Act lands. The Secretary's authority, delegated to the BLM, for mineral disposition on reserved National Forest System lands in Minnesota is in 16 U.S.C. § 508b.

The BLM originally awarded the leases on June 1, 1966, for a primary term of twenty years, with the possibility of three ten-year renewals.<sup>3</sup> On May 14, 1986, the lessee timely applied for a renewal.<sup>4</sup> After receiving legal advice from the Office of the Solicitor that the lease terms allowed for a renewal, the BLM granted a renewal of the leases on July 1, 1989, for a period of

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<sup>1</sup> This memorandum does not address issues related to National Environmental Policy Act compliance or any other legal issues surrounding these leases.

<sup>2</sup> The Chippewa in Minnesota have hunting, fishing, and other usufructuary rights in the northeast portion of the state of Minnesota under the 1854 Treaty of LaPointe. Treaty with the Chippewa, 10 Stat. 1109 (1854).

<sup>3</sup> See 1966 leases §§ 1(a), 5.

<sup>4</sup> The regulations at 43 C.F.R. § 3522.1-1 (1985) state that renewal applications "must be filed in the appropriate land office within 90 days prior to the expiration of the lease term." The lessee filed an application for extension of the term of the leases on May 14, 1986—30 days before the end of the primary twenty-year term on June 14, 1986, which was "within 90 days" of the lease expiration. Consequently, the renewal application was timely filed.

ten years.<sup>5</sup> TMM timely applied for a second renewal on March 15, 1999. The BLM renewed the leases on January 1, 2004.<sup>6</sup> The 2004 leases state that they are for a period of ten years, “with preferential right in the lessee to renew for successive periods of 10 years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.” On October 21, 2012, TMM timely applied to renew the leases once more.<sup>7</sup> TMM has been conducting exploration activities on the leaseholds based on the 2004 leases while the BLM considers TMM’s 2012 renewal application.

Under the original 1966 lease terms, as discussed more fully below, the lessee was required to commence production within the twenty-year primary term to qualify for three renewals of right. The leases provided that if there was no production at the end of the primary term, the leases would end unless the Secretary granted a lease renewal to extend the time to commence production.<sup>8</sup>

Although there has been no production, the operator held the leases under production waivers for five years and then through payment of minimum royalties in lieu of production payments for the rest of the time, consistent with the provisions of the 1966 leases that were incorporated by reference in the 2004 leases. Those provisions stated that, beginning after the tenth year of the primary term, the lessee is required to mine a quantity of minerals such that the royalties would be equal to \$5 per annum per acre for the primary term and \$10 per annum per acre during each renewal or, in lieu of that production, pay royalties equal to the minimum royalty. *See* 1966 leases § 2(c) (incorporated into section 14 of the 2004 leases). Section 2(c) of the 1966 leases allowed the lessor to waive, reduce, or suspend the minimum royalty payment for reasonable periods of time in the interest of conservation or when such action does not adversely affect the interest of the United States in accordance with 43 C.F.R. § 3222.6-2. *Id.*

According to the BLM’s records, the BLM relied on section 2(c) of the 1966 leases to grant individual waivers of production and minimum royalties for each of the first five lease years after the tenth year of the leases, beginning on June 1, 1976, and ending May 31, 1981, while the State of Minnesota was conducting environmental studies on the proposed mining operations,

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<sup>5</sup> The three-year time period between the date on which the lessee filed for the first ten-year lease renewal and the date on which the lease renewal was approved appears to have been due to BLM’s consideration of the lessee’s minimum royalty waiver request, coordination efforts between the United State Forest Service and the BLM regarding the Forest Service approval for the renewals, and the BLM’s consideration regarding the terms of the lease renewal.

<sup>6</sup> The lessee’s application for a second renewal on March 15, 1999 was 109 days before the end of the first lease renewal on July 1, 1999. The regulations in force in 1999 state that “[a]n application for lease renewal shall be filed at least 90 days prior to the expiration of the lease term.” 43 C.F.R. § 3528.1 (1998). Consequently, the 1999 renewal application was timely filed. The time period between the lessee’s filing of the second renewal application in March 1999 and the BLM’s approval of the lease renewal in January 2004 appears to have been due to coordination efforts between the United States Forest Service and the BLM, as well as the BLM’s internal review process.

<sup>7</sup> The 2012 renewal application was submitted 438 days before the end of the second renewal on January 1, 2014. The timing requirements for filing a renewal application in the current regulations are the same as those in the regulations that were in force in 1999. *Id.* § 3511.27 (2015). Consequently, the 2012 application was timely filed.

<sup>8</sup> Section 5 of the 1966 leases contains definite conditions for allowing such an extension, i.e., in the interest of conservation or upon a satisfactory showing by the lessee that the lease cannot be successfully operated at a profit or for other reasons.



which prevented INCO Alloys International, Inc. (TMM's predecessor in interest at the time of BLM's waiver decision), from developing the leases.<sup>9</sup>

The BLM records show that INCO filed another production and minimum royalty waiver request on June 26, 1985, for the period of July 1, 1981, to June 30, 1986. In response, the BLM issued a decision on January 28, 1987, finding that Minnesota had completed its environmental studies in 1979 and that INCO had not filed any mining applications or royalty waiver applications since 1981. The decision stated that "there is no evidence that INCO International is diligently working towards the development of these leases." Based on the BLM's conclusion that INCO had not met the obligations of the leases, the agency denied the production and royalty waiver request. The decision also notified the lessee that all delinquent payments were due before the BLM could process the first lease renewals at that time.<sup>10</sup> Although the BLM's records show that INCO failed to timely pay the annual rentals and minimum royalties in lieu of production for the lease years from June 1, 1981, to May 31, 1985 (a four-year period), once INCO received notice from the BLM about the delinquency, INCO paid the fees for all four years. Consequently, the royalty payment records of the Office of Natural Resources Revenue (ONRR) show that TMM and its predecessors paid the minimum royalties in lieu of production for each of the delinquent years—1981 to 1985. The ONRR records also show that TMM paid the minimum royalty in lieu of production payments from 1986 to the present.

In preparing to respond to the 1985 royalty waiver request, the BLM sought legal advice from the Solicitor's Office, which led to a 1986 legal memorandum regarding the use of one of the three renewals identified in section 5 of the 1966 leases to extend the time to commence production. This 1986 Associate Solicitor's Opinion is discussed below in this memorandum.<sup>11</sup>

As to the rental payments, the regulations in effect before 1986 provided that the "rental paid for any year shall be credited against any royalties for that year." 43 C.F.R. § 3503.3-1(b)(5) (1985). Beginning in 1999, the regulations have provided that the Minerals Management Service (now ONRR) "will credit your lease rental for any year against the first production royalties or minimum royalties . . . as the royalties accrue under the lease during that year." *Id.* § 3504.16(e) (2014). The ONRR records show that TMM has paid the rentals and those payments have been recouped for payment of a portion of the minimum royalty payments.

#### Relevant Lease Provisions

Three provisions in the 2004 leases are pertinent to whether TMM has a non-discretionary right to renewal:

##### Part I. Lease Rights Granted:

This Lease Renewal entered into by and between the United States of America, through the Bureau of Land Management, hereinafter called lessor, and American Copper &

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<sup>9</sup> These annual waivers, beginning in June 1976 and ending in May 1981, served to waive the production and minimum royalty requirements of the leases for that time period. The notification letters that BLM sent to the lessee for each of these waivers state that a waiver of production and minimum royalty requirements is granted and do not state that the lease term is being extended for the period of the suspension.

<sup>10</sup> As noted above, the lessee applied for its first lease renewal in May 1986. Under the 1966 lease terms, the twenty-year primary term was due to expire in June 1986.

<sup>11</sup> See *infra* p. 12.

Nickel Company, 922 19<sup>th</sup> Street, Golden, Colorado, 80401, hereinafter called lessee, is effective Jan-1 2004, for a period of 10 years, *Sodium, Sulphur, Hardrock* – with preferential right in the lessee to renew for successive periods of 10 years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.

Part I, Section 2:

Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to explore for, drill for, mine, extract, remove, beneficiate, concentrate, or otherwise process and dispose of the copper deposits nickel & associated minerals hereinafter referred to as “leased deposits,” in, upon, or under the following described lands: . . . .

Part II, Section 14. Special Stipulations:

\* The terms and conditions of the production royalties remains as stated in the attached original lease agreement [referring to the 1966 lease].

\*\* The minimum annual production and minimum royalty is \$10.00 per acre or a fraction thereof as stated in the attached original lease agreement [referring to the 1966 lease].

Because the provisions of the 2004 leases govern for the reasons set forth below, the renewal provisions of the 1966 leases are not applicable. Nevertheless, to provide a comprehensive analysis, the renewal provisions of the 1966 leases are discussed in the analysis that follows.

The three relevant provisions in the 1966 leases are:

Introductory clause:

This lease entered into . . . between the United States of America, as Lessor, through the Bureau of Land Management, and [TMM’s predecessor], as Lessee, pursuant to the authority set out in, and subject to, Section 402 of the President’s Reorganization Plan No. 3 of 1946, 60 Stat. 1099, and the Act of June 30, 1950, 64 Stat. 311, and to all regulations of the Secretary of the Interior now in force when not inconsistent with any of the provisions herein.

Section 1(a):

Rights of Lessee. In consideration of the rents and royalties to be paid and conditions and covenants to be observed as herein set forth the Lessor grants to the Lessee, subject to all privileges and uses heretofore duly authorized and prior valid claims, the exclusive right to mine, remove, and dispose of all the copper and/or nickel minerals and associated minerals . . . in, upon, or under [the described lands] . . . together with the right to construct and maintain thereon such structures and other facilities as may be necessary or convenient for the mining, preparation, and removal of said minerals, for a period of twenty (20) years with a right in the Lessee to renew the same for successive

periods of ten (10) years each in accordance with regulation 43 C.F.R. § 3221.4(f) and the provisions of this lease.

#### Section 5:

Renewal Terms. The Lessor shall have the right to reasonably readjust and fix royalties payable hereunder at the end of the primary term of this lease and thereafter at the end of each successive renewal thereof unless otherwise provided by the law at the time of the expiration of any such period, and to readjust other terms and conditions of the lease, including the revision of or imposition of stipulations for the protection of the surface of the land as may be required by the agency having jurisdiction thereof; provided, however, that the Lessee shall have the right to three successive ten-year renewals of this lease with any readjustment in the royalties payable hereunder limited to that hereinafter provided and with no readjustment of any of the other terms and conditions of this lease unless at the end of the primary term of this lease the Lessee shall not have begun production, either hereunder or under the companion lease granted to the Lessee this day. The Secretary of the Interior may grant extensions of time for commencement of production in the interest of conservation or upon a satisfactory showing by the Lessee that the lease cannot be successfully operated at a profit or for other reasons, and the Lessee shall be entitled to renewal as herein provided without readjustment except of royalties payable hereunder if at the end of the primary or renewal period such an extension shall be in effect, but the Lessee shall not be entitled to subsequent such renewals unless it shall have begun production within the extended time. If the Lessee shall be entitled to renewal without readjustment except of royalties payable hereunder, the Secretary of the Interior may in his discretion increase the royalty rate prescribed in subsection (b) of Section 2 up to, but not exceeding (i) 5% during the first ten-year renewal period, (ii) 6% during the second ten-year renewal period, and (iii) 7% during the third ten-year renewal period. The extent of readjustment of royalty, if any to be made under this section shall be determined prior to the commencement of the renewal period.

#### Analysis

The renewal rights of TMM are governed by the applicable provisions of leases MNES 01352 and MNES 01353. At this time, the 2004 renewal leases are in effect, and they use the BLM's standard renewal language that has been in place since the 1980s. In particular, the 2004 lease renewal terms grant the "preferential right in the lessee to renew for successive periods of ten years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period." The Department has consistently interpreted this provision as not entitling the lessee to an automatic right of renewal: "This *preferential* right of renewal does not *entitle* the lessee to renewal of the lease but 'gives the renewal lease applicant the legal right to be preferred against other parties, should the Secretary, in the exercise of his discretion, decide to continue leasing.'" *Gen. Chem. (Soda Ash) Partners*, 176 IBLA 1, 3 (2008) (emphasis in original) (quoting *Sodium Lease Renewals*, M-36943, 89 Interior Dec. 173, 178 (1982) (1982 Solicitor's Opinion)). The Interior Board of Land Appeals (IBLA) noted further that the "Secretary may exercise his discretionary authority in renewing a lease in the same manner as in issuing an initial lease." *Id.*

In reaching this conclusion, I have carefully considered TMM's contention that the terms of the 1966 leases govern and require the BLM to renew the leases for a third ten-year term. As discussed below, I have concluded that the terms of the 2004 leases govern and that, in any event, the renewal provisions of the 1966 leases give the BLM discretion regarding whether to renew the leases.

The 2004 leases are each complete, integrated documents that contain all necessary lease terms and are duly signed by the lessee and lessor. The degree to which the original 1966 leases continue in effect are specifically described in the 2004 leases, with two special stipulations that incorporate by reference only two provisions from the 1966 leases. 2004 leases § 14. The first stipulation states that the "terms and conditions of the production royalties remains as stated in the attached original lease agreement." The second states that the "minimum annual production and minimum royalty is \$10.00 per acre or fraction thereof as stated in the attached original lease agreement." Neither of these imported provisions includes the lease renewal provisions of the 1966 leases. Consequently, since at least the time that the BLM and the lessee signed the 2004 lease renewals, the renewal provisions of the 1966 leases have no longer applied and the only renewal terms are those described in the 2004 leases, as quoted in the previous paragraph. Based on that well understood and unambiguous renewal language, the BLM has the same discretionary authority in considering whether to renew the 2004 leases as it had in issuing the initial 1966 leases.

In a recent memorandum to me from TMM's legal counsel,<sup>12</sup> TMM asks the BLM to ignore the plain renewal terms of the 2004 leases and instead apply the renewal provisions of the 1966 leases. TMM relies on extrinsic evidence, placing heavy reliance on the circumstances leading up to the earlier 1989 renewal, which TMM asserts provide evidence that the BLM intended to simply renew the leases under the exact same terms of the 1966 leases. TMM further asserts that the 2004 renewal, because it was executed using the same forms, must also have intended to renew the 1966 leases without any change in terms.

As explained below in the discussion of the 1966 lease terms, the 1989 and 2004 renewals differ from each other because the BLM's discretion was limited in 1989 but not in 2004. In particular, the 1989 renewal served as a one-time extension of time for commencement of production, as authorized under section 5 of the 1966 leases. But section 5 also states that if an extension is granted, the renewal must be on unaltered terms (other than royalty). Accordingly, under section 5 of the 1966 leases, the 1989 renewal was effectively a ten-year extension of the 1966 lease terms, and the use of standard renewal forms in 1989 could have no effect other than to extend the leases for ten years to allow for commencement of production. But because no production commenced during that extension, TMM was not entitled to any subsequent production extensions or renewals under the 1966 lease terms, so the BLM had discretion in 2004 over both whether to renew and the terms of any such renewal. The executed renewal in 2004 therefore has operative effect, and the plain language of the 2004 leases actually executed by the parties must be given effect. There is nothing in the duly executed 2004 leases that states that the 1966 terms somehow govern over the terms expressly set out in the 2004 leases.

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<sup>12</sup> Memorandum from I. Daniel Colton, Partner, Dorsey & Whitney LLP, received under a cover letter dated January 26, 2016, to me from Kevin L. Baker, Director, Legal Affairs, Twin Metals Minnesota, LLC.

TMM's reliance on extrinsic evidence to attempt to negate the 2004 lease terms does not comply with the law of contracts. In the absence of ambiguity in the relevant lease provision, it is improper to rely on extrinsic evidence. *See Coast Fed. Bank, FSB v. United States*, 323 F.3d 1035, 1040 (Fed. Cir. 2006) (en banc) ("If the provisions are clear and unambiguous, they must be given their plain and ordinary meaning, and we may not resort to extrinsic evidence to interpret them." (internal quotation marks and citation omitted)); *see also Shell Oil Co. v. United States*, 751 F.3d 1282, 1295 (Fed. Cir. 2014) (improper for government to rely on extrinsic evidence when contract provision is unambiguous); *Thoman v. Bureau of Land Mgmt. (on recon.)*, 155 IBLA 266, 267 (2001) ("If the contract language is clear and unambiguous, the terms of the agreement are given plain meaning and the intent of the parties and the interpretation of the agreement will be determined from the four corners of the document alone." (internal citations omitted)). Under this objective law of contracts, the subjective intent of the parties is not relevant unless there is fraud, duress, or mutual mistake, none of which is alleged by TMM. *See Armenian Assembly of Am., Inc. v. Cafesjian*, 758 F.3d 265, 278 (D.C. Cir. 2014) ("[T]he 'objective' law of contracts . . . generally means that 'the written language embodying the terms of an agreement will govern the rights and liabilities of the parties, [regardless] of the intent of the parties at the time they entered into the contract, unless the written language is not susceptible of a clear and definite undertaking, or unless there is fraud, duress, or mutual mistake.'" (alteration in original) (citations omitted)).

In this case, there is nothing ambiguous with the renewal provision contained in the 2004 leases: there is no conflicting renewal provision referenced elsewhere in the 2004 leases and the provision has a longstanding and well established meaning. While TMM has asserted that the "preferential right" to renew is ambiguous because it is susceptible of more than one meaning, that argument is without merit.<sup>13</sup> TMM misinterprets the 1982 Solicitor's Opinion, which held that the preference right to renew "gives the renewal lease applicant the legal right to be preferred against other parties should the Secretary, in the proper exercise of his discretion, decide to continue leasing." 1982 Solicitor's Opinion, 89 Interior Dec. at 178. In reaching this conclusion, the Solicitor included a discussion of the meaning of "preference right leases." That discussion focused on the rights gained in the *initial* leasing decision, and distinguished between "entitlement" leases, which are leases to which an applicant is by statute entitled to receive if it meets statutory criteria, and true "preference right leases," which are issued only if the Secretary decides to lease. *See id.* Based on this discussion, TMM asserts it is ambiguous whether its leases are entitlement leases or preference right leases. Even if this distinction altered renewal rights, which is an issue that does not need to be addressed for purposes of this memorandum, there is no ambiguity in this case. Neither of the statutory authorities under which the leases are issued—section 402 of Reorganization Plan No. 3 of 1946, 60 Stat. 1097, 1099-1100, and 16 U.S.C. § 508b—creates an entitlement to a lease or otherwise mandates the issuance of leases. To the contrary, both authorities expressly condition leasing on surface owner consent (in this instance the discretion of the Forest Service) and thus are discretionary. In short, there is no ambiguity, and the renewal provisions in the 2004 leases provide the BLM with discretion to decide whether to renew the leases.

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<sup>13</sup> A lease is not ambiguous merely because the parties disagree on the correct interpretation. *Thoman*, 155 IBLA at 267 (citing *Pollock v. Fed. Deposit Ins. Corp.*, 17 F.3d 798, 803 (5th Cir. 1994); *Stichting Mayflower Recreational Fonds v. Newpark Res., Inc.*, 917 F.2d 1239, 1247 (10th Cir. 1990)).

Finally, even if the 1966 lease renewal terms were in effect, they do not prohibit the BLM from exercising its discretion to decide whether to renew the leases. Section 1(a) of the 1966 leases granted to the lessee “the exclusive right to mine, remove, and dispose of all the copper and/or nickel minerals and associated minerals . . . .” It also provided that renewal of the leases beyond the primary term is subject to 43 C.F.R. § 3221.4(f) (1966) and the provisions of the lease. Section 3221.4(f) provides that the lessee “will be granted a right of renewal for successive periods, not exceeding 10 years each, under such reasonable terms and conditions as the Secretary of the Interior may prescribe, including the revision of or imposition of stipulations for the protection of the surface of the land as may be required by the agency having jurisdiction thereover.” Based on this regulation, the BLM included a conditional renewal provision in section 5 of the 1966 leases.

Section 5 of the 1966 leases describes both the conditions with which the lessee must comply to establish a right to renew the lease and the limitations on revisions to the lease terms when the lessee does have a right to renewal:

**Renewal Terms.** The Lessor shall have the right to reasonably readjust and fix royalties payable hereunder at the end of the primary term of this lease and thereafter at the end of each successive renewal thereof unless otherwise provided by the law at the time of the expiration of any such period, and to readjust other terms and conditions of the lease, including the revision of or imposition of stipulations for the protection of the surface of the land as may be required by the agency having jurisdiction thereover; **provided, however, that the Lessee shall have the right to three successive ten-year renewals of this lease with any readjustment in the royalties payable hereunder limited to that hereinafter provided and with no readjustment of any of the other terms and conditions of this lease unless at the end of the primary term of this lease the Lessee shall not have begun production, either hereunder or under the companion lease granted to the Lessee this day. The Secretary of the Interior may grant extensions of time for commencement of production in the interest of conservation or upon a satisfactory showing by the Lessee that the lease cannot be successfully operated at a profit or for other reasons, and the Lessee shall be entitled to renewal as herein provided without readjustment except of royalties payable hereunder if at the end of the primary or renewal period such an extension shall be in effect, but the Lessee shall not be entitled to subsequent such renewals unless it shall have begun production within the extended time.** *If the Lessee shall be entitled to renewal without readjustment except of royalties payable hereunder, the Secretary of the Interior may in his discretion increase the royalty rate prescribed in subsection (b) of Section 2 up to, but not exceeding (i) 5% during the first ten-year renewal period, (ii) 6% during the second ten-year renewal period, and (iii) 7% during the third ten-year renewal period.* The extent of readjustment of royalty, if any to be made under this section shall be determined prior to the commencement of the renewal period.

1966 leases § 5 (emphases added). As explained more fully below, since at least 1986, the Solicitor’s Office has interpreted section 5 to mean that, even if the Secretary can and does, as a matter of discretion, renew the lease to extend the time to commence production, there is no right

to a further renewal when production<sup>14</sup> has not begun at the end of the first renewal-extension period.

The opening segment of the first sentence of section 5 describes the BLM's right to readjust the royalties and other terms and conditions at the renewal stage. This provision means that, as a general rule, if renewing the lease, the BLM is allowed to readjust not only the lease royalties but also other terms and conditions at the renewal stage, including stipulations to protect the surface.

The second segment of the first sentence following the semi-colon (highlighted in **bold** above) is a proviso that allows for three successive ten-year renewals, but conditions the lessee's right to those renewals on the lessee beginning production before the end of the primary term of the lease. The key conditioning language is at the end of the first sentence, as highlighted below:

provided, however, that the Lessee shall have the right to three successive ten-year renewals of this lease with any readjustment in royalties payable hereunder limited to that hereinafter provided and with no readjustment of any of the other terms and conditions of the lease **unless at the end of the primary term of this lease the Lessee shall not have begun production, either hereunder or under the companion lease granted to the Lessee this day.**

This highlighted clause, which begins with "unless," qualifies the very right to renew and not merely, as the company has asserted, the phrase describing the level of discretion the BLM has to readjust the other terms and conditions of the leases upon renewal. In other words, the proper meaning of the proviso is clear when the last clause is placed next to the provision it actually qualifies: "[T]he Lessee shall have the right to three successive ten-year renewals of this lease . . . unless at the end of the primary term of this lease the Lessee shall not have begun production, either hereunder or under the companion lease granted to the Lessee this day."

This conclusion is evident by the construction of the proviso. The two readjustment limitations are tied together and modify the "right to three successive ten-year renewals" language. The use of the conjunctive "and" between the two readjustment phrases ("with any readjustment in royalties payable hereunder limited to that hereinafter provided **and** with no readjustment of any of the other terms and conditions of the lease") ties them together as a single modifier to the right-to-renew language. Accordingly, the production requirement set out as the last clause of the proviso cannot merely qualify the readjustment phrases, as contended by TMM, but must apply to the overall right of renewal. In this way the proviso makes any non-discretionary renewal contingent on the lessee meeting the production requirement first, and then the conditions of that renewal regarding royalties and lease terms are specified in the readjustment phrases.

This conclusion is further reinforced by the second sentence of section 5 (the portion of section 5 underlined above). That sentence has three clauses. The first clause provides that the BLM has

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<sup>14</sup> None of the Department's solid minerals leasing regulations—including those in force at the time of the 1986 Solicitor's Opinion, those promulgated immediately thereafter, and those currently in force—expressly define the term "production." However, the rights granted in section 1 of the 1966 leases are described as mining, removing, and disposing of the copper and/or nickel minerals and associated minerals in, upon, or under the leased lands. These activities may be viewed to reasonably describe production.

the discretion to grant the lessee an extension beyond the primary term to begin production, if doing so would be in the interest of conservation or the lessee cannot operate the lease at a profit or for other reasons. The second clause states that, if an extension is granted, the lessee is entitled to a renewal in which the only revision allowed is to the royalties provision. These two clauses allow the lessee to use the first renewal as an extension time period to begin production. The third and final clause of the sentence, however, limits this right to a renewal if there is no production by the end of the extension: “but the Lessee shall not be entitled to subsequent such renewals unless it shall have begun production within the extended time.” This final clause reinforces the preceding sentence’s condition precedent that there must be production before the lessee has a “right” to subsequent renewals. The second sentence therefore again makes production a precondition for any right to renew and disallows the lessee from obtaining a “right” to a renewal if no production has occurred during the primary term or an extension that the Secretary may grant for commencement of production.

The third sentence of section 5 (the portion of section 5 in *italics* above) describes the degree to which the BLM may readjust the royalty if the lessee is entitled to a “limited adjustment” lease renewal under the first sentence, i.e., the Lessee is “entitled to renewal without readjustment except of royalties payable hereunder . . . .” But without production, there would be no such entitlement.

Taken as a whole, the language of section 5 does not give the lessee a non-discretionary right to three successive renewals. Rather, production is the condition precedent for the lessee to obtain any lease renewals of right. There is no right of renewal if there has been no production before the end of the primary term or at the end of any renewal that the BLM grants to extend the time for the lessee to commence production. The fact that the lease terms expressly state that subsequent renewals of right are not available if no production occurs during any extension the BLM may grant for commencement of production reiterates the linkage between renewals of right and production. It would be incongruent to link only the benefit of unchanged lease terms to production, while leaving the lease renewal and royalty readjustment terms unaffected by a lack of production. Such arbitrary line drawing would create little incentive for the lessee to develop the minerals, which is the entire purpose for these mineral leases. In contrast, when production is a condition precedent for lease renewals, the lease renewal provision effectively serves as a minimal due diligence provision for the lessee.<sup>15</sup>

TMM asserts a different interpretation though. TMM reads the proviso of the first sentence of section 5 to grant the lessee a non-discretionary right of renewal, with such right of renewal limited only to royalty readjustment and with no readjustment of any other lease terms. TMM also reads the production requirement in the provision—“unless at the end of the primary term of

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<sup>15</sup> We note that section 14 of the 1966 leases does not change this conclusion. Section 14 sets forth the royalty rates that would apply in the second ten years of the primary lease term and in the first, second, and third ten-year renewal periods, if the lessee were to sink a shaft for underground exploration or development or otherwise begin commercial development within five years of obtaining the rights and authorizations for construction, operation and maintenance of the leased premises. According to TMM, in 1967, its predecessor in interest, INCO, sunk an 1100-foot shaft for exploration and development on lease MNES 01352. TMM asserts that section 14 contractually entitles it to these royalty rates during each of three renewal periods. However, nothing in section 14 provides for a non-discretionary right of renewal. Rather, section 14 merely describes the royalty rate that would apply during the first three ten-year renewals. It does not grant those renewals and does not state that sinking an exploration or development shaft entitles the lessee to those renewals.



this lease the Lessee shall not have begun production”—to modify only the readjustment limitation language, not the right to renewal language. Under TMM’s interpretation of the provision, if the lessee begins production within the primary term, the BLM may make only limited royalty adjustments, as provided in the leases, and no adjustments to any other lease terms. If, on the other hand, the lessee fails to begin production within the primary term, according to TMM, the lack of production negates only the readjustment limitations in the provision, and the BLM would be able to impose greater royalty readjustments and readjust other terms and conditions of the leases upon renewal. In other words, under the company’s reading, a right to three successive ten-year renewals begins immediately following the primary terms regardless of whether production has occurred, and section 5 only affects the parameters for the BLM’s readjustment of the lease terms in those non-discretionary three renewals.

In addition to being unsupported by the terms of the proviso as described above, TMM’s interpretation would allow it to hold the leases without any need to produce minerals in paying quantities for at least fifty years, and longer in this instance given the time to process the lease renewals. This interpretation not only conflicts with the plain wording of the 1966 lease terms but also is contrary to the very intent of the applicable statutory framework under which the Secretary may authorize mineral development with an expectation of revenues, not speculative land holdings. *See* Reorganization Plan No. 3 of 1946 § 402, 60 Stat. 1097, 1099-1100; 16 U.S.C. § 520. Interpreting the leases to allow for three non-discretionary renewals covering a thirty-year time span without the occurrence of the very underlying activity for which the leases are issued in the first place would defeat the purpose of entering into the lease. Such an interpretation would allow for the speculative holding of mineral rights, which is contrary to Congress’s intent to encourage productive mineral development while also providing a fair return to the American taxpayer.

Our interpretation that section 5 requires the lessee to begin production to obtain the benefit of any non-discretionary right of renewal is not only mandated by the lease terms, but is consistent with the regulation regarding renewal applications cited in the lease. Section 1(a) of the 1966 leases requires the renewals to be in accordance with 43 C.F.R. § 3221.4(f) (1966), which in turn requires that renewal applications “must be filed in a manner similar to that prescribed for extension of a prospecting permit in § 3221.3(a).” Under 43 C.F.R. § 3221.3(a), a prospector must show that he or she has “diligently performed prospecting activities” to support an application for an extension of a prospecting permit.<sup>16</sup> Allowing for the difference between a prospecting permit application and a lease renewal application, § 3221.3(a) requires that the lease renewal application include a showing of diligence in performing the lease activities (rather than the prospecting activities), which are reasonably viewed, consistent with the rights granted in section 1 of the lease terms, as mining, removing, and disposing of the copper and/or nickel minerals and associated minerals—i.e., production. Consequently, by stating that any renewals must be “in accordance with 43 C.F.R. § 3221.4(f),” the lease terms again identified production as the baseline for obtaining a renewal of right. Based on the lease terms as a whole, and because there has been no production during the primary term or the succeeding extensions through lease renewals that the BLM has granted, TMM has not satisfied the condition precedent

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<sup>16</sup> Under 43 C.F.R. § 3221.3(a) (1966), in addition to making a show of diligence, the applicant must file an application in triplicate within ninety days before the expiration date of the lease term and must pay a filing fee.

for obtaining a renewal of right and, therefore, the BLM has discretion to make a decision regarding whether to renew the leases even if the 1966 renewal terms were in effect.

In addition, the Solicitor's Office has already concluded that the BLM is not required to renew the 1966 leases as a matter of right if there has been no production. In 1986, the Associate Solicitor for the Division of Energy and Resources sent a memorandum to the Deputy State Director for the BLM Eastern States Office responding to three questions from the Deputy State Director.<sup>17</sup> The first question was whether it was possible to grant lease renewals (for the same leases that are at issue here) when the leases had never been in production. In response, the Associate Solicitor examined the terms of the lease to determine whether or not lack of production precludes extending the lease term. The Associate Solicitor then relied on the second sentence of section 5 (the portion of section 5 underlined above) to conclude that, while the leases may be extended for a period not exceeding ten years even though production has not occurred, if production does not occur during the period of extension, "no further extensions will be allowed in accordance with the terms of the lease." Consistent with this legal advice and the provisions of section 5 of the 1966 leases, the BLM granted a ten-year extension by renewing these two leases in 1989.

As noted above, the BLM also renewed the leases for a second ten-year period in 2004. Because no production had occurred by that time, the BLM's decision to renew the leases in 2004 was discretionary. The BLM's decision to renew the leases in 2004 does not impede the BLM from again exercising discretion regarding the lessee's application for a third renewal of the leases, particularly where this office has previously concluded that the agency need not allow additional pre-production renewals.<sup>18</sup>

It should be noted that the lessee's payment of minimum royalties in lieu of production does not alter the foregoing analysis.<sup>19</sup> The payment of minimum royalties is certainly one incentive to produce that was imposed by the 1966 leases, but that incentive worked in tandem with the one created by the leases' production precondition for mandatory renewals. The second incentive

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<sup>17</sup> See Memorandum from Associate Solicitor, Energy and Resources, signed by Kenneth G. Lee, Assistant Solicitor, Branch of Eastern Resources, to Deputy State Director, Mineral Resources, Eastern States Office, Bureau of Land Management, "Application for Minimum Royalty Waiver Submitted by INCO Alloys International, Incorporated for Leases ES 01352 and ES 01353" (Apr. 2, 1986) (Attached).

<sup>18</sup> TMM has made no showing in its pending renewal application under 43 C.F.R. § 3221.4(f) (1966) that would entitle it to a third and final renewal under section 5 of the 1966 leases. TMM has never begun production. TMM's predecessor, INCO, sunk a development shaft and conducted bulk sampling, but neither of those actions qualifies as beginning production. Without any showing of diligence in mining, removing, or disposing of the copper, nickel, and associated minerals, and without beginning production, TMM is not entitled to any further non-discretionary ten-year renewals. TMM has also asserted that the Department of the Interior is prohibited by 30 U.S.C. § 184(h)(2), as well as the Department's regulations at 43 C.F.R. § 3514.40 (2015), from "cancelling" TMM's interest in the leases at issue as TMM is a bona fide purchaser. But the cancellation regulations have no applicability where, as here, the decision is whether to renew a lease. Were BLM to exercise its discretion to deny the lease renewal application, it would not be cancelling the leases, as contemplated by 30 U.S.C. § 184(h)(2) and 43 C.F.R. § 3514.40, but rather would be allowing leases that have been in existence for fifty years without production to terminate by their own terms.

<sup>19</sup> The original leases do not mention minimum royalties as a way to fulfill the production requirement. And section 2(b) of TMM's 2004 leases merely provides that "[a]t the request of the lessee, made prior to initiation of the lease year, the authorized officer may allow in writing the payment of a \$3.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year."

expired when no production occurred by the end of the extension period granted by the 1989 renewal. While the 2004 renewal leases retain the minimum royalties payment incentive, that fact has no impact on the renewal provision of the 2004 leases. Of course, for the leases to continue in effect during the renewal period, the lessee was required to continue to meet its obligation to pay royalties in lieu of production. However, that payment was and is not equivalent to production and does not somehow entitle the lessee to obtain a lease renewal of right; instead, it merely keeps the leases from terminating during the extension time period the BLM has granted through a lease renewal.

The fact that the payment of royalties in lieu of production cannot be the basis for establishing the right to renew, and cannot be a *de facto* means of extending a lease in perpetuity, is also clear from IBLA case law. In *General Chemical (Soda Ash) Partners*, the IBLA held that minimum royalties in lieu of production have “nothing to do with whether the Secretary, in looking at production from the mine of which the lease is a part at the end of the current lease term, will renew the lease for an additional term.” 176 IBLA at 9. The Board further held, “Moreover, ‘[t]he Secretary has the authority to encourage production and development of federally leased sodium resources *both through minimum development and production requirements and minimum royalties* imposed on each lease.” *Id.* (emphasis in original) (quoting 1982 Solicitor’s Opinion, 89 Interior Dec. at 185). The leases here use precisely both mechanisms to encourage production, albeit not successfully in this instance.

#### Conclusion

For the foregoing reasons, the lessee has not established a non-discretionary right to a third ten-year renewal. Under the governing 2004 lease terms, the BLM has the same discretion regarding whether to renew the lease for a third time as it had in determining whether to grant the initial lease. While the 2004 lease terms give the lessee a preference over other potential lessees to lease the lands in question, they do not entitle the lessee to non-discretionary renewal of the leases.

  
Hilary C. Tompkins

Attachment



## United States Department of the Interior

OFFICE OF THE SOLICITOR  
350 South Pickett Street  
ALEXANDRIA, VIRGINIA 22304

BLM.ER.0335

APR - 2 1986

### Memorandum

To: Deputy State Director, Mineral Resources (970)  
Eastern States Office, Bureau of Land Management

From: Associate Solicitor, Energy and Resources

Subject: Application for Minimum Royalty Waiver Submitted by  
INCO Alloys International, Incorporated for Leases  
ES 01352 and ES 01353

You have requested a legal opinion addressing three questions raised in a memorandum from the Milwaukee District Office. The answers along with these questions are set forth below.

Question No. 1: "Is it possible to grant lease renewals for these leases when the leases have never been in production? The lease documents and the regulations are not clear on this point. This question will surely be asked by INCO since the initial 20 year lease term expires on May 31, 1986."

A lease for hardrock minerals may be issued for a period not exceeding 20 years. The primary term on the subject leases was for a 20 year period. The lease shall be subject to a preferential right to renew for a term not to exceed 10 years at the end of the initial term and each succeeding term thereafter, upon such terms and conditions as may be incorporated in each lease or prescribed in the general regulations issued by the Secretary. 43 C.F.R. 3520.2-1(a)(2). The Secretary of the Interior has promulgated no regulations that require production as a prerequisite to the extension of such leases. Accordingly, we must look to the terms of the lease to determine whether or not lack of production precludes extending the lease term. Section 5 of the lease states that, "The Secretary of the Interior may grant extensions of time for commencement of production in the interest of conservation or upon a satisfactory showing by the lessee that the lease cannot be successfully operated at a profit or for other reasons . . . but the lessee shall not be entitled to subsequent such renewals unless it shall have begun production within the extended time." Therefore, according to the terms of the lease, such lease may be extended even though production has not occurred, for a period not exceeding 10 years. If production does not occur during the period of extension, no further extensions will be allowed in accordance with the terms of the lease.

Question No. 2: "INCO has been given waivers of minimum royalty payments for 5 years due to condition beyond its control (i.e.,

environmental analysis), and is now asking for a waiver based on additional conditions beyond its control (i.e., low copper and nickel prices). Has BLM set a binding precedence [sic] by granting the original waivers?"

INCO's failure to pay minimum royalties as set forth in section 2(c) of the lease, constitutes a breach of the covenants and conditions contained in the lease agreement. In section 6(b) of the lease, the United States reserved the right to waive any breach of the covenants and conditions contained therein but any such waiver shall extend only to the particular breach so waived and shall not limit the rights of the lessor with respect to any future breach. Therefore, waiver of a prior breach of the minimum royalty payments, does not obligate the Bureau to grant any subsequent waivers.

Question No. 3: Section 2(c) of the lease states, "Lessee [sic] may . . . waive . . . minimum royalty payments for reasonable periods of time . . . ." Waivers were given for the first 5 years they were due, which is one-fourth of the initial lease term. Would granting of further waivers be conceived to extend beyond a "reasonable period?"

Section 2(c) states that, "Lessor may in its discretion, waive, reduce, or suspend the minimum royalty payment for reasonable periods of time in the interest of conservation or when such action does not adversely affect the interest of the United States. . . ." Whether or not the waiver period is "reasonable" must be determined by an examination of the purpose for which such discretion was exercised. Obviously if the reason for such waiver was due to a condition that only existed for 3 years, then a waiver of minimum royalty for a 10 year period would probably be deemed unreasonable. We suggest that the information submitted by the lessee be examined and considered in its entirety in order to determine what is reasonable given the facts set forth in that information. In addition, the reasonable period of time is to be viewed in the context of the "interest of conservation" and the "interest of the United States."

If you should have any further questions relating to this matter, please contact Barry Crowell at 274-0204.



Kenneth G. Lee  
Assistant Solicitor  
Branch of Eastern Resources

Attachment

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

MINERAL LEASE

This lease entered into on the 1st day of June, 1966 between the United States of America, as Lessor, through the Bureau of Land Management, and The International Nickel Company, Inc., a Delaware corporation with offices at 67 Wall Street, New York, New York, as Lessee, pursuant to the authority set out in, and subject to, Section 402 of the President's Reorganization Plan No. 3 of 1946, 60 Stat. 1099, and the Act of June 30, 1950, 64 Stat. 311, and to all regulations of the Secretary of the Interior now in force when not inconsistent with any of the provisions herein.

WITNESSETH:

Sec. 1. (a) Rights of Lessee. In consideration of the rents and royalties to be paid and conditions and covenants to be observed as herein set forth the Lessor grants to the Lessee, subject to all privileges and uses heretofore duly authorized and prior valid claims, the exclusive right to mine, remove, and dispose of all the copper and/or nickel minerals and associated minerals and, with the exception of oil, gas, oil shale, coal, phosphate, potassium, sodium, or sulphur, any other minerals in, upon, or under the following described lands in the United States, in the State of Minnesota:

In Lake County:

Township 61 North, Range 11 West of the Fourth Principal Meridian:

Section 3, Lot 2  
SW-1/4 of SW-1/4  
S-1/2 of SE-1/4  
Section 5, Lots 1 and 2  
S-1/2 of NE-1/4  
Lot 6  
Lot 7  
NE-1/4 of SW-1/4  
S-1/2 of SW-1/4  
N-1/2 of SE-1/4

Section 6, Lots 13, 22, 23 and 24  
Section 7, Lots 1, 2, 3, 4, 9, 10, 12, 15, 16 and 19  
Section 8, Lots 2 and 6  
Section 9, All except W-1/2 of NW-1/4  
Section 18, Lots 2, 7, 9, 12, 13, 14, 15, 16, 17, 18  
19 and 20

Section 19, Lots 2, 3, 4, 5, 7 and 8

Township 62 North, Range 11 West of the Fourth Principal Meridian:

Section 27, SE-1/4 of SW-1/4  
Section 32, Lot 4  
Section 33, Lots 6 and 7  
Section 34, NW-1/4

In St. Louis County:

Township 61 North, Range 12 West of the Fourth Principal Meridian:

Section 25, Lot 2  
SW-1/4 of SW-1/4

containing ~~2,569.87~~ acres, more or less, together with the right

2,610.07

SEE DECISION 9-1-66

to construct and maintain thereon such structures and other facilities as may be necessary or convenient for the mining, preparation, and removal of said minerals, for a period of twenty (20) years with a right in the Lessee to renew the same for successive periods of ten (10) years each in accordance with regulation 43 CFR § 3221.4(f) and the provisions of this lease.

(b) Authorized Agency Representative. The United States agency having administrative control over the surface use of the land is the Department of Agriculture and its authorized agency representative, hereinafter called the "Authorized Officer," to whom inquiries should be addressed is the Supervisor, Superior National Forest at Duluth, Minnesota.

Sec. 2. In consideration of the foregoing, the Lessee agrees:

(a) Rentals. To pay to the Lessor annually in advance, beginning with the date of this lease, rental of one dollar (\$1.00) for each acre or fraction thereof for each lease year until production commences, the rental payment for the year in which production commences to be credited on royalties that accrue during that lease year.

(b) Royalty. To pay the Lessor within 30 days after the end of each period prescribed in subsection (e) of this section a royalty (i) at the rate of 4% during the first ten years of the primary term and (ii) at the rate of 4-1/2% during the second 10 years of the primary term, of the gross value of the minerals mined hereunder which are shipped to the concentrating mill during each such period. Said value for the purposes of this Agreement shall be taken to be one-third of the market prices of a quantity of fully-refined copper and of a quantity of fully-refined nickel equal to the respective quantities of unrefined copper and unrefined nickel contained in said minerals so shipped to the concentrating mill.

(c) Minimum royalty. Beginning after the tenth year of the lease, except with respect to any periods during which operations are interrupted by strikes, the elements or casualties not attributable to the Lessee, to mine each year from the area covered by the lease a quantity of the leased minerals such that the royalties payable for said year under subsections (b) and (d) hereof will during the primary term of the lease be at least equal to \$5 per annum per acre included in the leased premises at the beginning of such year, and during each renewal period of the lease be at least equal to \$10 per annum per acre included in the leased premises at the beginning of such year; or in lieu thereof to pay the Lessor as royalty within 30 days after the end of such year that amount which, when added to the royalties, if any, payable for said year under subsections (b) and (d) hereof, will equal the minimum royalty for that year herein provided. Lessor may in its discretion, waive, reduce, or suspend the minimum royalty payment for reasonable periods of time in the interest of conservation or when such action does not adversely affect the interest of the United States of America in accordance with the regulation 43 CFR § 3222.6-2.

(d) Additional royalty. (1) In order to provide a royalty in respect of any associated products (as hereinafter defined), to pay the Lessor within 30 days after the end of each period prescribed in subsection (e) of this section an additional royalty of 0.3% of the gross value of the minerals mined under this lease (determined on the basis of their copper and nickel content as provided in subsection (b) of this section) which are shipped to the concentrating mill during such

period. During the first ten years of the lease such additional royalty shall not be payable if the Lessee demonstrates that no associated products are being recovered from the minerals mined under this lease, but beginning after the tenth year of the lease, such additional royalty shall be payable whether or not associated products are recovered from the minerals mined under this lease.

(2) The Lessee will also pay the Lessor within 90 days after the end of each lease year a further additional royalty of 1% of the amount, if any, by which the gross value of associated products exceeds 20% of the aggregate market price as fully-refined metals of the quantity of copper and nickel contained in the minerals mined under this lease which are shipped to the concentrating mill during such lease year. At the request of either party following any lease year for which said 1% royalty has been payable and the gross value of associated products exceeds 30% of the said aggregate market price, representatives of the Lessor and the Lessee shall meet at a mutually agreeable time to consider and decide whether additional royalty for associated products shall continue to be payable as provided in this subsection (d), or shall (in lieu thereof) be payable on such basis as may be negotiated. In connection with such meeting the Lessee will make a reasonable investigation to ascertain insofar as practicable the volume of associated products which appear to be currently recovered from the minerals mined under this lease, and will provide the Lessor with the results of this investigation.

(3) For purposes of this agreement, the term "associated products" shall mean (i) fully-refined chemical elements (other than copper and nickel) not further processed and (ii) end products containing such elements produced by the Lessee (prior to full refining) for their value as such (other than products valuable chiefly by reason of their copper and/or nickel content), which are, in either case, recovered by the Lessee from minerals mined under this lease and sold or used by the Lessee during the lease year for which additional royalty, if any, is due; and the gross value of such products shall be taken to be the aggregate of the market prices of the respective quantities of associated products so sold or used by the Lessee.

(e) Statement. To furnish for each month or such longer period as may be prescribed by the Regional Mining Supervisor of the Geological Survey, statements in detail in such form as may be prescribed by him, of the amount and value under subsection (b) of this section of the minerals mined hereunder which are shipped to the concentrating mill during such period, for use in determining royalties, such statements to be furnished within 30 days from the close of such period. Falsification of such statements shall be grounds for cancellation of the lease.

(f) Market prices. For the purposes of this section the "market price of fully-refined copper" per pound shall be the average of the monthly average prices per pound for Domestic Refinery Electrolytic Copper in carload lots, f.o.b. Atlantic Seaboard refineries, published in E. & M. J. Metal and Mineral Markets for the period for which the royalty is being computed, and the "market price of fully-refined nickel" per pound shall be the average of the monthly average prices per pound for nickel (i.e., electrolytic nickel cathodes) in carload lots, f.o.b. Port Colborne, Ontario, Canada, United States import duty (if any) included, published in E. & M. J. Metal and Mineral Markets for the period for which royalty is being computed; and the respective "market prices of associated products" per unit



shall be the average of the monthly average prices per unit for such respective products in their usual and customary shipping quantities, f.o.b. their usual and customary place of disposal, published in E. & M. J. Metal and Mineral Markets for the period for which additional royalty, if any, is being computed.

(g) Bond. To furnish and maintain a bond in the sum of \$ 10,000.00 conditioned upon compliance with the terms and conditions of this lease, and to increase the amount thereof or furnish such other bond as may be required.

(h) Inspection. To permit at all reasonable times: (1) inspection by any authorized officer of the leased premises and all surface and underground improvements, works, machinery, equipment, and all books and records pertaining to operations and surveys or investigations under this lease; and (2) the Lessor to make copies of and extracts from any or all books and records pertaining to operations under this lease.

(i) Maps--Reports. To furnish, in duplicate, to the Regional Mining Supervisor, at such times as he may require, a plat in the manner and form prescribed by him showing prospecting and development work and improvements on the leased land and other related information, with a report as to all buildings, structures, and other works or equipment, situated elsewhere and owned or operated in conjunction with, or as a part of the operations conducted hereunder.

(j) To comply with all regulations of the Secretary of the Interior and the Secretary of Agriculture applicable to the leased premises which are under his jurisdiction; and to conduct operations in an orderly manner and in accordance with regulations in 30 CFR, Part 2250, and the applicable Federal and State laws; and to exercise reasonable diligence, skill, and care in the operation of the property; and to carry on all operations in accordance with approved methods and practices, having due regard for the prevention of damage to mineral deposits, water horizons and property, injury to life and health, and economic waste.

*7-11-46  
for memo to  
Regional  
Mining  
Staff (12-26)  
Jed 7-5-46*

(k) Taxes. To pay when due all taxes lawfully assessed and levied under the laws of the State or the United States upon improvements, output of mines, and other rights, property, and assets of the Lessee.

(l) Deliver Premises. To deliver up to the Lessor in good order and condition and subject to the provisions of Section 9 hereof on the termination of this lease as a result of forfeiture thereof the lands covered thereby, including all underground timbering and such other supports and structures as are necessary for the preservation of the mine.

(m) Assignment. Not to assign this lease, or any interest therein, whether by direct assignment, operating agreement, working or royalty interest, or otherwise, nor sublet any portion of the leased premises, except with the approval in writing of the Lessor. All such assignments or subleases must be submitted in triplicate within 90 days from the date of execution and must contain all of the terms and conditions agreed upon by the parties thereto. Not to create overriding royalties in excess of those authorized by regulation 43 CFR § 3226.1.

An assignment of all or part of the record title to a portion of the acreage in the lease shall separate the lease into separate leaseholds and the terms hereof shall apply

separately to the segregated portions. Advance annual rental payments, if previously terminated, shall be resumed as to an undeveloped segregated portion on the next anniversary date of the lease; the minimum royalty payment herein specified shall apply separately to the segregated portions and the time allowed within which to commence operations on an undeveloped segregated portion shall be such reasonable period as shall be prescribed by the Lessor at the time the assignment is approved.

(n) Nondiscrimination Clauses. In connection with the performance of work under this contract, the Lessee agrees as follows:

(1) The Lessee will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Lessee will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Lessee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the authorized contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The Lessee will, in all solicitations or advertisements for employees placed by or on behalf of the Lessee state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

(3) The Lessee will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the said labor union or workers' representative of the Lessee's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Lessee will comply with all provisions of Executive Order No. 10925 of March 6, 1961, as amended, and of the rules, regulations, and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.

(5) The Lessee will furnish all information and reports required by Executive Order No. 10925 of March 6, 1961, as amended, and by the rules, regulations, and orders of the said Committee, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Committee for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Lessee's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the Lessee may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 10925 of March 6, 1961, as amended, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order or by rule, regulation, or order of the President's Committee on Equal Employment Opportunity, or as

otherwise provided by law.

(7) The Lessee will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the President's Committee on Equal Employment Opportunity issued pursuant to section 303 of Executive Order No. 10925 of March 6, 1961, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Lessee will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the Lessee becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Lessee may request the United States to enter into such litigation to protect the interests of the United States.

(o) Payments. Rentals under this lease shall be paid to the Manager of the proper Land Office, except that when this lease becomes productive the rentals and royalties shall be paid to the Regional Mining Supervisor of the United States Geological Survey, with whom all reports concerning operations under the lease shall be filed. All remittances to the Bureau of Land Management shall be made payable to the Bureau of Land Management, those to the Geological Survey shall be made payable to the United States Geological Survey.

Sec. 3. Lessee further agrees:

(a) Protection of Property. To conduct all operations hereunder with due regard for good land management, not to cut or destroy timber without previous permission from the Authorized Officer and to pay for such timber at rates prescribed by him; to avoid damage to improvements, timber, crops, or other cover; unless otherwise authorized by the Authorized Officer, not drill any well, carry on operations, make excavations, construct tunnels, drill, or otherwise disturb the surface of the lands within 200 feet of any building thereon and whenever required in writing by the Authorized Officer, and upon any partial or total relinquishment, cancellation or termination of this lease as to that portion of the land to which his rights have terminated, to fence or fill all sump holes, ditches and other excavations, remove or cover all debris, and so far as reasonably possible, reseed or otherwise restore the surface of the lands to their former condition, or to a productive or other condition satisfactory to the Authorized Officer, including the removal of structures as and if required, and when required by such Officer to bury all pipelines below plow depth.

(b) Fire precautions. To do all in his power to prevent and suppress fires on the land and vicinity, and to require his employees, contractors, and subcontractors to do likewise. Unless prevented by circumstances over which he has no control, to place his employees, contractors, and subcontractors at the disposal of the Authorized Officer for the purpose of fighting fires on or originating on the land or on adjacent areas or caused by the negligence of the Lessee or his employees, contractors, and subcontractors, with the understanding that payment for such services shall be made at rates to be determined by such Authorized Officer but not less than the current rates of pay prevailing in the vicinity for services of a similar character: Provided, that if the

Lessee, his employees, contractors, or subcontractors, or employees of any of them, caused or could have prevented the origin or spread of said fire or fires, no payment shall be made for services so rendered. During periods of serious fire danger, as may be specified by the Authorized Officer, the Lessee shall prohibit smoking and the building of camp and lunch fires by his employees, contractors, and subcontractors, within the leased area except at established camps, and shall enforce this prohibition by all means within his power: Provided, that the Authorized Officer may designate safe places where, after all inflammable material has been cleared away, campfires may be built for the purpose of heating lunches and where, at the option of the Lessee, smoking may be permitted. The Lessee will not burn rubbish, trash, or other inflammable materials except with the consent of the Authorized Officer. The Lessee shall build or construct such fire lines or do such clearing on the land as the Authorized Officer decides is essential for forest, brush, and grass fire prevention which is or may be necessitated by the exercise of the privileges authorized by this lease, and shall maintain such fire tools at his headquarters or at the appropriate location on the land as are deemed necessary by such Officer.

(c) Approval of Construction. Not to clear or use the land for development or for construction purposes of any kind until a plan of construction and development therefor has been approved by the Authorized Officer and that in the location, design, construction and maintenance of all authorized works, camps, buildings, plants, waterways, roads, telegraph or telephone lines, pipelines, reservoirs, tanks, pumping stations, or other structures or clearance, Lessee shall do all things reasonably necessary to prevent or reduce scarring and erosion of the land, pollution of the water resources and any damage to the watershed.

(d) Damage to Property. To pay the Lessor or its tenant, as the case may be, for any and all damage to or destruction of property caused by the Lessee's operations hereunder; to save and hold the Lessor or the surface owner or their tenants harmless from all damage or claims for damage to persons or property resulting from the Lessee's operations under this lease; and where the surface of the leased land is owned by other than the Lessor, to pay such owner, or his tenant, as the case may be, for damage or injury to livestock, crops, trees, pipelines, buildings, and other improvements of the leased lands. That where construction, operation, or maintenance of any of the facilities on or connected with this lease causes damage to the watershed or pollution of the water resources, to repair such damage and to take such corrective measures as are required by the Authorized Officer, including the reseedling or other restoration of the vegetative cover.

(e) Protection of Livestock; Access to Leased Lands. To install and maintain cattle guards to prevent the passage of livestock in any openings made in fences by the Lessee or his contractors to provide access to the lands covered by this lease for automotive and other equipment.

(f) Authorized Officer. All inquiries relating to this section should be addressed to the Authorized Officer named in Section 1(b) of this lease.

Sec. 4. Lessee--Agent. Prior to the beginning of operations the Lessee shall appoint and maintain at all times during the term of this lease a local agent upon whom may be served written orders or notices respecting matters contained in this lease, and shall inform the Authorized Officer and the Regional

Mining Supervisor of the Geological Survey, in writing, of the name and address of such agent. If a substitute agent is appointed, the Lessee shall immediately so inform the said Officers.

Sec. 5. Renewal Terms. The Lessor shall have the right to reasonably readjust and fix royalties payable hereunder at the end of the primary term of this lease and thereafter at the end of each successive renewal thereof unless otherwise provided by law at the time of the expiration of any such period, and to readjust other terms and conditions of the lease, including the revision of or imposition of stipulations for the protection of the surface of the land as may be required by the agency having jurisdiction thereof; provided, however, that the Lessee shall have the right to three successive ten-year renewals of this lease with any readjustment in the royalties payable hereunder limited to that hereinafter provided and with no readjustment of any of the other terms and conditions of this lease unless at the end of the primary term of this lease the Lessee shall not have begun production, either hereunder or under the companion lease granted to the Lessee this day. The Secretary of the Interior may grant extensions of time for commencement of production in the interest of conservation or upon a satisfactory showing by the Lessee that the lease cannot be successfully operated at a profit or for other reasons, and the Lessee shall be entitled to renewal as herein provided without readjustment except of royalties payable hereunder if at the end of the primary or renewal period such an extension shall be in effect, but the Lessee shall not be entitled to subsequent such renewals unless it shall have begun production within the extended time. If the Lessee shall be entitled to renewal without readjustment except of royalties payable hereunder, the Secretary of the Interior may in his discretion increase the royalty rate prescribed in subsection (b) of Section 2 up to, but not exceeding (i) 5% during the first ten-year renewal period, (ii) 6% during the second ten-year renewal period, and (iii) 7% during the third ten-year renewal period. The extent of readjustment of royalty, if any, to be made under this section shall be determined prior to the commencement of the renewal period.

Sec. 6. The Lessor expressly reserves:

(a) Rights Reserved. The right to permit for joint or several use easements or rights-of-way, including easements in tunnels upon, through, or in the land leased, occupied, or used as may be necessary or appropriate to the working of the same or other lands, and the preparation and shipment of the products thereof by or under authority of the Government, its Lessees or Permittees, and for other public purposes.

(b) Waiver of Conditions. The right to waive any breach of the covenants and conditions contained herein, but any such waiver shall extend only to the particular breach so waived and shall not limit the rights of the Lessor with respect to any future breach; nor shall the waiver of a particular cause of forfeiture prevent cancellation of this lease for any other cause, or for the same cause occurring at another time.

Sec. 7. It is mutually agreed:

(a) Mining Methods. That this lease does not authorize the mining or removal of the mineral deposits by stripping, rim cutting, or open pit methods without the prior written

approval of the Authorized Officer and on such conditions as he may prescribe.

(b) Reduction or Smelting of Ores. That the reduction or smelting of ores on the leased land is expressly prohibited in the absence of an agreement between the Lessee and the Authorized Officer authorizing such use of the surface of the land and providing for the necessary protection of life and property. Such agreement shall contain all of the terms and conditions under which the reduction or smelting of ores may be carried on and any violation of that agreement shall be considered a violation of the terms of this lease for the purpose of Section 10.

(c) Uses and Disposition of Surface. That the leased land shall be subject at all times to any other lawful uses or sale by the United States, its Lessees, Permittees, Licensees, and Assigns; provided that such uses or sale shall not prevent, obstruct, or unduly interfere with any privilege granted under this lease; Provided, that the Lessee shall recognize existing uses and commitments in the form of grazing, timber cutting, and special use permits, water developments, ditch, road, trail, pipeline, telephone and telegraph lines, fence, rights-of-way, and other similar improvements, and to conduct his operations so as to interfere as little as possible with the rights and privileges granted by these permits or with other existing uses.

(d) Granting Leases for Other Minerals. That the granting of this lease will not preclude the issuance of other leases of the same land for the purpose of mining and extracting oil, gas, oil shale, coal, phosphate, potassium, sodium, and sulphur.

Sec. 8. Relinquishment of Lease. The Lessee may surrender this lease or any one or more legal subdivisions included in the leased premises. If the lands are not described by legal subdivision, a partial relinquishment must describe definitely the lands surrendered and give the exact area thereof. A relinquishment must be filed in triplicate in the proper Land Office. Upon its acceptance, it will be effective as of the date it is filed, subject to the continued obligation of the Lessee and his surety to make payment of all accrued rentals and royalties, and to provide for the preservation of any mines or productive works or permanent improvements on the lands in accordance with the regulations and terms of the lease, and for the faithful compliance of all the terms of the lease.

Sec. 9. Removal of Equipment, etc., on Termination of Lease. On termination of this lease, by surrender, forfeiture, or otherwise, the Lessee shall have the privilege at any time within a period of one year thereafter of removing from the premises all machinery, equipment, tools, and materials, other than underground timbering placed by the Lessee in or on the leased lands, which are not necessary for the preservation of the mine. Any materials, tools, appliances, machinery, structures, and equipment, subject to removal as above provided, which are allowed to remain on the leased land shall become the property of the Lessor on expiration of the one-year period or such extension thereof as may be granted by the Lessor, but the Lessee shall remove any or all of such property when so directed by the Lessor.

Sec. 10. Proceedings in Case of Default. If the Lessee does not comply with the applicable regulations made a part hereof or the terms of this lease and such default continues for a period of 30 days, or such longer period as the Lessor determines may be reasonably required to correct the default, after service of written notice thereof by the Lessor, the Lessor may institute appropriate proceedings in a court of competent jurisdiction for the forfeiture and cancellation of this lease or seek such other administrative, legal or equitable remedies as may be appropriate. Furthermore, if the Lessee fails to take prompt and necessary steps to prevent loss or damage to the mine, property, or premises, or danger to the employees, the Lessor may enter on the premises and take such measures as may be deemed necessary to prevent such loss or damage, or to correct the dangerous or unsafe condition of the mine or works thereof, which shall be at the expense of the Lessee, but the Lessee shall not be held responsible for delays or casualties occasioned by causes beyond the Lessee's control.

Sec. 11. Heirs and Successors-in-Interest. Each obligation hereunder shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. Unlawful Interest. It is also further agreed that no Member of, or Delegate to, Congress, or Resident Commissioner, after his election or appointment, or either before or after he has qualified and during his continuance in office, and that no officer, agent, or employee of the Department of the Interior, except as provided in 43 CFR 7.4(a)(1), shall be admitted to any share or part in this lease or derive any benefit that may arise therefrom; and the provisions of Section 3741 of the Revised Statutes of the United States, as amended (41 U.S.C., Sec. 22), and sections 431, 432, and 433, Title 18 U.S.C., relating to contracts, enter into and form a part of this lease so far as the same may be applicable.

Sec. 13. Special Stipulations.

(a) In conformity with the principles of the Shipstead-Newton-Nolan Act of July 10, 1930 (16 U.S.C. 577), no occupancy or use of the surface within 400 feet of the shoreline of any lake or stream is authorized without the written approval of the Authorized Officer.

(b) Any and all operations authorized by this lease shall be done in accordance with a plan which must be submitted in triplicate and approved in writing by the Authorized Officer before such operations are begun. The operating plan will contain all such provisions as the Authorized Officer may reasonably determine are needed to maintain proper administration of the lands and surface resources. Where appropriate, depending upon the location and type of operation, the Authorized Officer may require the plan to contain provisions concerning the following matters:

1. The location and extent of areas to be occupied during operations.
2. The methods to be used in the operations.
3. The size and type of equipment to be used in the operations.
4. The capacity, character, standards of construction and size of all structures and facilities to be built.
5. The location and size of areas upon which vegetation will be destroyed or soil will be laid bare.

6. The steps which will be taken to prevent and control soil erosion.
7. The steps which will be taken to prevent water pollution.
8. The character, amount, and time of use of explosives or fire, including safety precautions which will be taken during their use.
9. The program proposed for rehabilitation and revegetation of disturbed lands.

If later operations require departure from or additions to the approved plan, revisions or amendments will be submitted in triplicate, with statements of the reasons for changes or additions, to the Authorized Officer for approval. Any and all operations conducted in advance of approval of an original, revised, or amended operating plan, or which are not in accord with an approved plan, constitute violations of the terms of this lease.

(c) If minerals from the leased premises be shipped outside the United States for treatment, Lessee shall, upon the call of the Lessor, and provided that there be no imposition of tariff, cause to be returned for sale or for use in the operations of the Lessee or of its affiliates in the United States quantities of copper equal to the quantities recovered from the minerals so shipped during the time of the call. The copper so returned shall be priced on no different basis than would then be applicable under circumstances prevailing had it been produced entirely within the United States and sold by a domestic producer, so that the prices will be competitive with those of domestic producers.

(d) Within 12 months after approval by the Authorized Officer Lessee will carry out a program in respect of this lease and the companion lease issued this day of drilling to ascertain the facts which will be essential to instituting production, and also will ship to the pilot plants of its parent company in Ontario, Canada, not less than 1,000 tons of ore to seek appropriate extractive metallurgical procedures therefor. The anticipated cost of the drilling program, to cover from 10,000 to 20,000 feet of drilling at an average cost of \$10 per foot is \$200,000. The estimated cost of preparing, transporting and treating the ore sample is \$125,000 to \$200,000; in addition revisions in and additions to the pilot plants in connection therewith are estimated to cost about \$250,000.

Sec. 14. Royalty Adjustment. If the Lessee shall have sunk a shaft for underground exploration or development or shall have otherwise commenced commercial development of the premises leased under this lease (or the companion lease issued to Lessee this day) within five years after the Regional Mining Supervisor shall have determined that the Federal and State governments have granted all necessary rights and authorizations for the construction, operation and maintenance of the leased premises, the rate of royalty payable under Section 2(b) with respect to the second ten years of the primary lease term shall be 4% in lieu of 4-1/2% as provided therein and the rates of royalty set forth in Section 5 shall not exceed (i) 4-1/2% during the first ten-year renewal

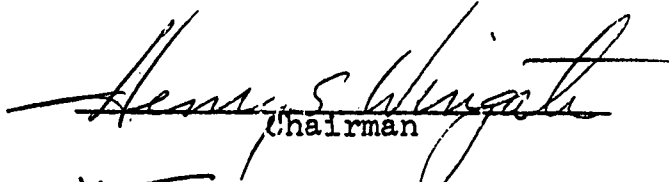
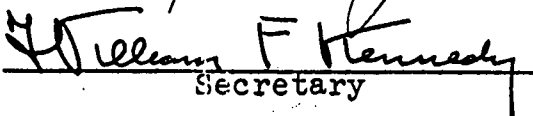


period, (ii) 5-1/2% during the second ten-year renewal period, and (iii) 6% during the third ten-year renewal period.

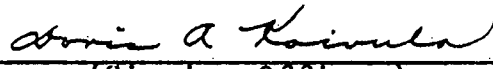
SIGNATURE OF LESSEE(S)

THE INTERNATIONAL NICKEL  
COMPANY, INC.

By

  
Chairman  
  
Secretary

THE UNITED STATES OF AMERICA

  
(Signing Officer)

Land Office Manager  
Eastern States Office  
(Title)

JUN 14 1966  
(Date)

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If this lease is executed by a corporation, it must bear the corporate seal.

#### EQUAL OPPORTUNITY

(a) The Nondiscrimination Clause, regarding "Equal Opportunity," in the attached mineral permit or lease, is amended by deleting references to the President's Committee on Equal Employment Opportunity, Executive Order No. 10925 of March 6, 1961, as amended, and section 303 of Executive Order No. 10925 of March 6, 1961, as amended; and substituting therefor the Secretary of Labor, Executive Order No. 11246 of September 24, 1965, and section 204 of Executive Order No. 11246 of September 24, 1965, respectively.

(b) In accordance with regulations of the Secretary of Labor, the rules, regulations, orders, instructions, designations, and other directives referred to in section 403(b) of Executive Order No. 11246, remain in effect and, where applicable, shall be observed in the performance of this contract until revoked or superseded by appropriate authority.

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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

MINERAL LEASE

This lease entered into on the 1st day of June, 1966, between the United States of America, as Lessor, through the Bureau of Land Management, and The International Nickel Company, Inc., a Delaware corporation with offices at 67 Wall Street, New York, New York, as Lessee, pursuant to the authority set out in, and subject to, Section 402 of the President's Reorganization Plan No. 3 of 1946, 60 Stat. 1099, and the Act of June 30, 1950, 64 Stat. 311, and to all regulations of the Secretary of the Interior now in force when not inconsistent with any of the provisions herein.

WITNESSETH:

Sec. 1. (a) Rights of Lessee. In consideration of the rents and royalties to be paid and conditions and covenants to be observed as herein set forth the Lessor grants to the Lessee, subject to all privileges and uses heretofore duly authorized and prior valid claims, the exclusive right to mine, remove, and dispose of all the copper and/or nickel minerals and associated minerals and, with the exception of oil, gas, oil shale, coal, phosphate, potassium, sodium, or sulphur, any other minerals in, upon, or under the following described lands in the United States, in the State of Minnesota:

In Lake County:

Township 62 North, Range 10 West of the Fourth Principal Meridian:

Section 19, All  
Section 20, SW-1/4  
Section 29, N-1/2  
Section 30, N-1/2

Lot 3 (NW-1/4 of SW-1/4)

Township 62 North, Range 11 West of the Fourth Principal Meridian:

Section 24, Lot 7  
SE-1/4 of SW-1/4  
S-1/2 of SE-1/4  
Section 25, N-1/2  
W-1/2 of SW-1/4 [undivided one-half interest]  
NE-1/4 of SE-1/4  
Section 26, S-1/2 of NE-1/4  
NE-1/4 of SW-1/4  
E-1/2 of SE-1/4 [undivided one-half interest]

containing ~~2,326.40~~ acres, more or less, together with the right

2,334.71 GROSS

2,254.71 NET

SEE DECISION 9-1-66

to construct and maintain thereon such structures and other facilities as may be necessary or convenient for the mining, preparation, and removal of said minerals, for a period of twenty (20) years with a right in the Lessee to renew the same for successive periods of ten (10) years each in accordance with regulation 43 CFR § 3221.4(f) and the provisions of this lease.

(b) Authorized Agency Representative. The United States agency having administrative control over the surface use of the land is the Department of Agriculture and its authorized agency representative, hereinafter called the "Authorized Officer," to whom inquiries should be addressed is the Supervisor, Superior National Forest at Duluth, Minnesota.

Sec. 2. In consideration of the foregoing, the Lessee agrees:

(a) Rentals. To pay to the Lessor annually in advance, beginning with the date of this lease, rental of one dollar (\$1.00) for each acre or fraction thereof for each lease year until production commences, the rental payment for the year in which production commences to be credited on royalties that accrue during that lease year.

(b) Royalty. To pay the Lessor within 30 days after the end of each period prescribed in subsection (e) of this section a royalty (i) at the rate of 4% during the first ten years of the primary term and (ii) at the rate of 4-1/2% during the second 10 years of the primary term, of the gross value of the minerals mined hereunder which are shipped to the concentrating mill during each such period. Said value for the purposes of this Agreement shall be taken to be one-third of the market prices of a quantity of fully-refined copper and of a quantity of fully-refined nickel equal to the respective quantities of unrefined copper and unrefined nickel contained in said minerals so shipped to the concentrating mill.

(c) Minimum royalty. Beginning after the tenth year of the lease, except with respect to any periods during which operations are interrupted by strikes, the elements or casualties not attributable to the Lessee, to mine each year from the area covered by the lease a quantity of the leased minerals such that the royalties payable for said year under subsections (b) and (d) hereof will during the primary term of the lease be at least equal to \$5 per annum per acre included in the leased premises at the beginning of such year, and during each renewal period of the lease be at least equal to \$10 per annum per acre included in the leased premises at the beginning of such year; or in lieu thereof to pay the Lessor as royalty within 30 days after the end of such year that amount which, when added to the royalties, if any, payable for said year under subsections (b) and (d) hereof, will equal the minimum royalty for that year herein provided. Lessor may in its discretion, waive, reduce, or suspend the minimum royalty payment for reasonable periods of time in the interest of conservation or when such action does not adversely affect the interest of the United States of America in accordance with the regulation 43 CFR § 3222.6-2.

(d) Additional royalty. (1) In order to provide a royalty in respect of any associated products (as hereinafter defined), to pay the Lessor within 30 days after the end of each period prescribed in subsection (e) of this section an additional royalty of 0.3% of the gross value of the minerals mined under this lease (determined on the basis of their copper and nickel content as provided in subsection (b) of this section) which are shipped to the concentrating mill during such



period. During the first ten years of the lease such additional royalty shall not be payable if the Lessee demonstrates that no associated products are being recovered from the minerals mined under this lease, but beginning after the tenth year of the lease, such additional royalty shall be payable whether or not associated products are recovered from the minerals mined under this lease.

(2) The Lessee will also pay the Lessor within 90 days after the end of each lease year a further additional royalty of 1% of the amount, if any, by which the gross value of associated products exceeds 20% of the aggregate market price as fully-refined metals of the quantity of copper and nickel contained in the minerals mined under this lease which are shipped to the concentrating mill during such lease year. At the request of either party following any lease year for which said 1% royalty has been payable and the gross value of associated products exceeds 30% of the said aggregate market price, representatives of the Lessor and the Lessee shall meet at a mutually agreeable time to consider and decide whether additional royalty for associated products shall continue to be payable as provided in this subsection (d), or shall (in lieu thereof) be payable on such basis as may be negotiated. In connection with such meeting the Lessee will make a reasonable investigation to ascertain insofar as practicable the volume of associated products which appear to be currently recovered from the minerals mined under this lease, and will provide the Lessor with the results of this investigation.

(3) For purposes of this agreement, the term "associated products" shall mean (i) fully-refined chemical elements (other than copper and nickel) not further processed and (ii) end products containing such elements produced by the Lessee (prior to full refining) for their value as such (other than products valuable chiefly by reason of their copper and/or nickel content), which are, in either case, recovered by the Lessee from minerals mined under this lease and sold or used by the Lessee during the lease year for which additional royalty, if any, is due; and the gross value of such products shall be taken to be the aggregate of the market prices of the respective quantities of associated products so sold or used by the Lessee.

(e) Statement. To furnish for each month or such longer period as may be prescribed by the Regional Mining Supervisor of the Geological Survey, statements in detail in such form as may be prescribed by him, of the amount and value under subsection (b) of this section of the minerals mined hereunder which are shipped to the concentrating mill during such period, for use in determining royalties, such statements to be furnished within 30 days from the close of such period. Falsification of such statements shall be grounds for cancellation of the lease.

(f) Market prices. For the purposes of this section the "market price of fully-refined copper" per pound shall be the average of the monthly average prices per pound for Domestic Refinery Electrolytic Copper in carload lots, f.o.b. Atlantic Seaboard refineries, published in E. & M. J. Metal and Mineral Markets for the period for which the royalty is being computed, and the "market price of fully-refined nickel" per pound shall be the average of the monthly average prices per pound for nickel (i.e., electrolytic nickel cathodes) in carload lots, f.o.b. Port Colborne, Ontario, Canada, United States import duty (if any) included, published in E. & M. J. Metal and Mineral Markets for the period for which royalty is being computed; and the respective "market prices of associated products" per unit

shall be the average of the monthly average prices per unit for such respective products in their usual and customary shipping quantities, f.o.b. their usual and customary place of disposal, published in E. & M. J. Metal and Mineral Markets for the period for which additional royalty, if any, is being computed.

(g) Bond. To furnish and maintain a bond in the sum of \$ 10,000.00 conditioned upon compliance with the terms and conditions of this lease, and to increase the amount thereof or furnish such other bond as may be required.

(h) Inspection. To permit at all reasonable times: (1) inspection by any authorized officer of the leased premises and all surface and underground improvements, works, machinery, equipment, and all books and records pertaining to operations and surveys or investigations under this lease; and (2) the Lessor to make copies of and extracts from any or all books and records pertaining to operations under this lease.

(i) Maps--Reports. To furnish, in duplicate, to the Regional Mining Supervisor, at such times as he may require, a plat in the manner and form prescribed by him showing prospecting and development work and improvements on the leased land and other related information, with a report as to all buildings, structures, and other works or equipment, situated elsewhere and owned or operated in conjunction with, or as a part of the operations conducted hereunder.

(j) To comply with all regulations of the Secretary of the Interior and the Secretary of Agriculture applicable to the leased premises which are under his jurisdiction; and to conduct operations in an orderly manner and in accordance with regulations in 30 CFR, Part 2250, and the applicable Federal and State laws; and to exercise reasonable diligence, skill, and care in the operation of the property; and to carry on all operations in accordance with approved methods and practices, having due regard for the prevention of damage to mineral deposits, water horizons and property, injury to life and health, and economic waste. *7-11-66 per memo from Legal Dept. Mining Staff (7226) dtg 7-5-66*

(k) Taxes. To pay when due all taxes lawfully assessed and levied under the laws of the State or the United States upon improvements, output of mines, and other rights, property, and assets of the Lessee.

(l) Deliver Premises. To deliver up to the Lessor in good order and condition and subject to the provisions of Section 9 hereof on the termination of this lease as a result of forfeiture thereof the lands covered thereby, including all underground timbering and such other supports and structures as are necessary for the preservation of the mine.

(m) Assignment. Not to assign this lease, or any interest therein, whether by direct assignment, operating agreement, working or royalty interest, or otherwise, nor sublet any portion of the leased premises, except with the approval in writing of the Lessor. All such assignments or subleases must be submitted in triplicate within 90 days from the date of execution and must contain all of the terms and conditions agreed upon by the parties thereto. Not to create overriding royalties in excess of those authorized by regulation 43 CFR § 3226.1.

An assignment of all or part of the record title to a portion of the acreage in the lease shall separate the lease into separate leaseholds and the terms hereof shall apply

otherwise provided by law.

(7) The Lessee will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the President's Committee on Equal Employment Opportunity issued pursuant to section 303 of Executive Order No. 10925 of March 6, 1961, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Lessee will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the Lessee becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Lessee may request the United States to enter into such litigation to protect the interests of the United States.

(o) Payments. Rentals under this lease shall be paid to the Manager of the proper Land Office, except that when this lease becomes productive the rentals and royalties shall be paid to the Regional Mining Supervisor of the United States Geological Survey, with whom all reports concerning operations under the lease shall be filed. All remittances to the Bureau of Land Management shall be made payable to the Bureau of Land Management, those to the Geological Survey shall be made payable to the United States Geological Survey.

Sec. 3. Lessee further agrees:

(a) Protection of Property. To conduct all operations hereunder with due regard for good land management, not to cut or destroy timber without previous permission from the Authorized Officer and to pay for such timber at rates prescribed by him; to avoid damage to improvements, timber, crops, or other cover; unless otherwise authorized by the Authorized Officer, not drill any well, carry on operations, make excavations, construct tunnels, drill, or otherwise disturb the surface of the lands within 200 feet of any building thereon and whenever required in writing by the Authorized Officer, and upon any partial or total relinquishment, cancellation or termination of this lease as to that portion of the land to which his rights have terminated, to fence or fill all sump holes, ditches and other excavations, remove or cover all debris, and so far as reasonably possible, reseed or otherwise restore the surface of the lands to their former condition, or to a productive or other condition satisfactory to the Authorized Officer, including the removal of structures as and if required, and when required by such Officer to bury all pipelines below plow depth.

(b) Fire precautions. To do all in his power to prevent and suppress fires on the land and vicinity, and to require his employees, contractors, and subcontractors to do likewise. Unless prevented by circumstances over which he has no control, to place his employees, contractors, and subcontractors at the disposal of the Authorized Officer for the purpose of fighting fires on or originating on the land or on adjacent areas or caused by the negligence of the Lessee or his employees, contractors, and subcontractors, with the understanding that payment for such services shall be made at rates to be determined by such Authorized Officer but not less than the current rates of pay prevailing in the vicinity for services of a similar character: Provided, that if the

separately to the segregated portions. Advance annual rental payments, if previously terminated, shall be resumed as to an undeveloped segregated portion on the next anniversary date of the lease; the minimum royalty payment herein specified shall apply separately to the segregated portions and the time allowed within which to commence operations on an undeveloped segregated portion shall be such reasonable period as shall be prescribed by the Lessor at the time the assignment is approved.

(n) Nondiscrimination Clauses. In connection with the performance of work under this contract, the Lessee agrees as follows:

(1) The Lessee will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Lessee will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Lessee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the authorized contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The Lessee will, in all solicitations or advertisements for employees placed by or on behalf of the Lessee state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

(3) The Lessee will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the said labor union or workers' representative of the Lessee's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Lessee will comply with all provisions of Executive Order No. 10925 of March 6, 1961, as amended, and of the rules, regulations, and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.

(5) The Lessee will furnish all information and reports required by Executive Order No. 10925 of March 6, 1961, as amended, and by the rules, regulations, and orders of the said Committee, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Committee for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Lessee's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the Lessee may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 10925 of March 6, 1961, as amended, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order or by rule, regulation, or order of the President's Committee on Equal Employment Opportunity, or as



Lessee, his employees, contractors, or subcontractors, or employees of any of them, caused or could have prevented the origin or spread of said fire or fires, no payment shall be made for services so rendered. During periods of serious fire danger, as may be specified by the Authorized Officer, the Lessee shall prohibit smoking and the building of camp and lunch fires by his employees, contractors, and subcontractors, within the leased area except at established camps, and shall enforce this prohibition by all means within his power: Provided, that the Authorized Officer may designate safe places where, after all inflammable material has been cleared away, campfires may be built for the purpose of heating lunches and where, at the option of the Lessee, smoking may be permitted. The Lessee will not burn rubbish, trash, or other inflammable materials except with the consent of the Authorized Officer. The Lessee shall build or construct such fire lines or do such clearing on the land as the Authorized Officer decides is essential for forest, brush, and grass fire prevention which is or may be necessitated by the exercise of the privileges authorized by this lease, and shall maintain such fire tools at his headquarters or at the appropriate location on the land as are deemed necessary by such Officer.

(c) Approval of Construction. Not to clear or use the land for development or for construction purposes of any kind until a plan of construction and development therefor has been approved by the Authorized Officer and that in the location, design, construction and maintenance of all authorized works, camps, buildings, plants, waterways, roads, telegraph or telephone lines, pipelines, reservoirs, tanks, pumping stations, or other structures or clearance, Lessee shall do all things reasonably necessary to prevent or reduce scarring and erosion of the land, pollution of the water resources and any damage to the watershed.

(d) Damage to Property. To pay the Lessor or its tenant, as the case may be, for any and all damage to or destruction of property caused by the Lessee's operations hereunder; to save and hold the Lessor or the surface owner or their tenants harmless from all damage or claims for damage to persons or property resulting from the Lessee's operations under this lease; and where the surface of the leased land is owned by other than the Lessor, to pay such owner, or his tenant, as the case may be, for damage or injury to livestock, crops, trees, pipelines, buildings, and other improvements of the leased lands. That where construction, operation, or maintenance of any of the facilities on or connected with this lease causes damage to the watershed or pollution of the water resources, to repair such damage and to take such corrective measures as are required by the Authorized Officer, including the reseeding or other restoration of the vegetative cover.

(e) Protection of Livestock; Access to Leased Lands. To install and maintain cattle guards to prevent the passage of livestock in any openings made in fences by the Lessee or his contractors to provide access to the lands covered by this lease for automotive and other equipment.

(f) Authorized Officer. All inquiries relating to this section should be addressed to the Authorized Officer named in Section 1(b) of this lease.

Sec. 4. Lessee--Agent. Prior to the beginning of operations the Lessee shall appoint and maintain at all times during the term of this lease a local agent upon whom may be served written orders or notices respecting matters contained in this lease, and shall inform the Authorized Officer and the Regional

Mining Supervisor of the Geological Survey, in writing, of the name and address of such agent. If a substitute agent is appointed, the Lessee shall immediately so inform the said Officers.

Sec. 5. Renewal Terms. The Lessor shall have the right to reasonably readjust and fix royalties payable hereunder at the end of the primary term of this lease and thereafter at the end of each successive renewal thereof unless otherwise provided by law at the time of the expiration of any such period, and to readjust other terms and conditions of the lease, including the revision of or imposition of stipulations for the protection of the surface of the land as may be required by the agency having jurisdiction thereover; provided, however, that the Lessee shall have the right to three successive ten-year renewals of this lease with any readjustment in the royalties payable hereunder limited to that hereinafter provided and with no readjustment of any of the other terms and conditions of this lease unless at the end of the primary term of this lease the Lessee shall not have begun production, either hereunder or under the companion lease granted to the Lessee this day. The Secretary of the Interior may grant extensions of time for commencement of production in the interest of conservation or upon a satisfactory showing by the Lessee that the lease cannot be successfully operated at a profit or for other reasons, and the Lessee shall be entitled to renewal as herein provided without readjustment except of royalties payable hereunder if at the end of the primary or renewal period such an extension shall be in effect, but the Lessee shall not be entitled to subsequent such renewals unless it shall have begun production within the extended time. If the Lessee shall be entitled to renewal without readjustment except of royalties payable hereunder, the Secretary of the Interior may in his discretion increase the royalty rate prescribed in subsection (b) of Section 2 up to, but not exceeding (i) 5% during the first ten-year renewal period, (ii) 6% during the second ten-year renewal period, and (iii) 7% during the third ten-year renewal period. The extent of readjustment of royalty, if any, to be made under this section shall be determined prior to the commencement of the renewal period.

Sec. 6. The Lessor expressly reserves:

(a) Rights Reserved. The right to permit for joint or several use easements or rights-of-way, including easements in tunnels upon, through, or in the land leased, occupied, or used as may be necessary or appropriate to the working of the same or other lands, and the preparation and shipment of the products thereof by or under authority of the Government, its Lessees or Permittees, and for other public purposes.

(b) Waiver of Conditions. The right to waive any breach of the covenants and conditions contained herein, but any such waiver shall extend only to the particular breach so waived and shall not limit the rights of the Lessor with respect to any future breach; nor shall the waiver of a particular cause of forfeiture prevent cancellation of this lease for any other cause, or for the same cause occurring at another time.

Sec. 7. It is mutually agreed:

(a) Mining Methods. That this lease does not authorize the mining or removal of the mineral deposits by stripping, rim cutting, or open pit methods without the prior written

approval of the Authorized Officer and on such conditions as he may prescribe.

(b) Reduction or Smelting of Ores. That the reduction or smelting of ores on the leased land is expressly prohibited in the absence of an agreement between the Lessee and the Authorized Officer authorizing such use of the surface of the land and providing for the necessary protection of life and property. Such agreement shall contain all of the terms and conditions under which the reduction or smelting of ores may be carried on and any violation of that agreement shall be considered a violation of the terms of this lease for the purpose of Section 10.

(c) Uses and Disposition of Surface. That the leased land shall be subject at all times to any other lawful uses or sale by the United States, its Lessees, Permittees, Licensees, and Assigns; provided that such uses or sale shall not prevent, obstruct, or unduly interfere with any privilege granted under this lease; Provided, that the Lessee shall recognize existing uses and commitments in the form of grazing, timber cutting, and special use permits, water developments, ditch, road, trail, pipeline, telephone and telegraph lines, fence, rights-of-way, and other similar improvements, and to conduct his operations so as to interfere as little as possible with the rights and privileges granted by these permits or with other existing uses.

(d) Granting Leases for Other Minerals. That the granting of this lease will not preclude the issuance of other leases of the same land for the purpose of mining and extracting oil, gas, oil shale, coal, phosphate, potassium, sodium, and sulphur.

Sec. 8. Relinquishment of Lease. The Lessee may surrender this lease or any one or more legal subdivisions included in the leased premises. If the lands are not described by legal subdivision, a partial relinquishment must describe definitely the lands surrendered and give the exact area thereof. A relinquishment must be filed in triplicate in the proper Land Office. Upon its acceptance, it will be effective as of the date it is filed, subject to the continued obligation of the Lessee and his surety to make payment of all accrued rentals and royalties, and to provide for the preservation of any mines or productive works or permanent improvements on the lands in accordance with the regulations and terms of the lease, and for the faithful compliance of all the terms of the lease.

Sec. 9. Removal of Equipment, etc., on Termination of Lease. On termination of this lease, by surrender, forfeiture, or otherwise, the Lessee shall have the privilege at any time within a period of one year thereafter of removing from the premises all machinery, equipment, tools, and materials, other than underground timbering placed by the Lessee in or on the leased lands, which are not necessary for the preservation of the mine. Any materials, tools, appliances, machinery, structures, and equipment, subject to removal as above provided, which are allowed to remain on the leased land shall become the property of the Lessor on expiration of the one-year period or such extension thereof as may be granted by the Lessor, but the Lessee shall remove any or all of such property when so directed by the Lessor.

Sec. 10. Proceedings in Case of Default. If the Lessee does not comply with the applicable regulations made a part hereof or the terms of this lease and such default continues for a period of 30 days, or such longer period as the Lessor determines may be reasonably required to correct the default, after service of written notice thereof by the Lessor, the Lessor may institute appropriate proceedings in a court of competent jurisdiction for the forfeiture and cancellation of this lease or seek such other administrative, legal or equitable remedies as may be appropriate. Furthermore, if the Lessee fails to take prompt and necessary steps to prevent loss or damage to the mine, property, or premises, or danger to the employees, the Lessor may enter on the premises and take such measures as may be deemed necessary to prevent such loss or damage, or to correct the dangerous or unsafe condition of the mine or works thereof, which shall be at the expense of the Lessee, but the Lessee shall not be held responsible for delays or casualties occasioned by causes beyond the Lessee's control.

Sec. 11. Heirs and Successors-in-Interest. Each obligation hereunder shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. Unlawful Interest. It is also further agreed that no Member of, or Delegate to, Congress, or Resident Commissioner, after his election or appointment, or either before or after he has qualified and during his continuance in office, and that no officer, agent, or employee of the Department of the Interior, except as provided in 43 CFR 7.4(a)(1), shall be admitted to any share or part in this lease or derive any benefit that may arise therefrom; and the provisions of Section 3741 of the Revised Statutes of the United States, as amended (41 U.S.C., Sec. 22), and sections 431, 432, and 433, Title 18 U.S.C., relating to contracts, enter into and form a part of this lease so far as the same may be applicable.

Sec. 13. Special Stipulations.

(a) In conformity with the principles of the Shipstead-Newton-Nolan Act of July 10, 1930 (16 U.S.C. 577), no occupancy or use of the surface within 400 feet of the shoreline of any lake or stream is authorized without the written approval of the Authorized Officer.

(b) Any and all operations authorized by this lease shall be done in accordance with a plan which must be submitted in triplicate and approved in writing by the Authorized Officer before such operations are begun. The operating plan will contain all such provisions as the Authorized Officer may reasonably determine are needed to maintain proper administration of the lands and surface resources. Where appropriate, depending upon the location and type of operation, the Authorized Officer may require the plan to contain provisions concerning the following matters:

1. The location and extent of areas to be occupied during operations.
2. The methods to be used in the operations.
3. The size and type of equipment to be used in the operations.
4. The capacity, character, standards of construction and size of all structures and facilities to be built.
5. The location and size of areas upon which vegetation will be destroyed or soil will be laid bare.

6. The steps which will be taken to prevent and control soil erosion.
7. The steps which will be taken to prevent water pollution.
8. The character, amount, and time of use of explosives or fire, including safety precautions which will be taken during their use.
9. The program proposed for rehabilitation and revegetation of disturbed lands.

If later operations require departure from or additions to the approved plan, revisions or amendments will be submitted in triplicate, with statements of the reasons for changes or additions, to the Authorized Officer for approval. Any and all operations conducted in advance of approval of an original, revised, or amended operating plan, or which are not in accord with an approved plan, constitute violations of the terms of this lease.

(c) If minerals from the leased premises be shipped outside the United States for treatment, Lessee shall, upon the call of the Lessor, and provided that there be no imposition of tariff, cause to be returned for sale or for use in the operations of the Lessee or of its affiliates in the United States quantities of copper equal to the quantities recovered from the minerals so shipped during the time of the call. The copper so returned shall be priced on no different basis than would then be applicable under circumstances prevailing had it been produced entirely within the United States and sold by a domestic producer, so that the prices will be competitive with those of domestic producers.

(d) Within 12 months after approval by the Authorized Officer Lessee will carry out a program in respect of this lease and the companion lease issued this day of drilling to ascertain the facts which will be essential to instituting production, and also will ship to the pilot plants of its parent company in Ontario, Canada, not less than 1,000 tons of ore to seek appropriate extractive metallurgical procedures therefor. The anticipated cost of the drilling program, to cover from 10,000 to 20,000 feet of drilling at an average cost of \$10 per foot is \$200,000. The estimated cost of preparing, transporting and treating the ore sample is \$125,000 to \$200,000; in addition revisions in and additions to the pilot plants in connection therewith are estimated to cost about \$250,000.

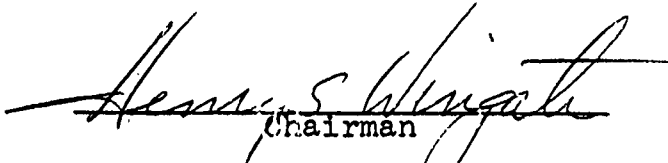
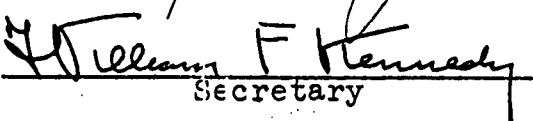
Sec. 14. Royalty Adjustment. If the Lessee shall have sunk a shaft for underground exploration or development or shall have otherwise commenced commercial development of the premises leased under this lease (or the companion lease issued to Lessee this day) within five years after the Regional Mining Supervisor shall have determined that the Federal and State governments have granted all necessary rights and authorizations for the construction, operation and maintenance of the leased premises, the rate of royalty payable under Section 2(b) with respect to the second ten years of the primary lease term shall be 4% in lieu of 4-1/2% as provided therein and the rates of royalty set forth in Section 5 shall not exceed (i) 4-1/2% during the first ten-year renewal

period, (ii) 5-1/2% during the second ten-year renewal period, and (iii) 6% during the third ten-year renewal period.


SIGNATURE OF LESSEE(S)

THE INTERNATIONAL NICKEL  
COMPANY, INC.

By

  
Chairman  
  
Secretary

THE UNITED STATES OF AMERICA

  
(Signing Officer)

Land Office Manager  
Eastern States Office  
(Title)

JUN 14 1966  
(Date)

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If this lease is executed by a corporation, it must bear the corporate seal.

EQUAL OPPORTUNITY

(a) The Nondiscrimination Clause, regarding "Equal Opportunity," in the attached mineral permit or lease, is amended by deleting references to the President's Committee on Equal Employment Opportunity, Executive Order No. 10925 of March 6, 1961, as amended, and section 303 of Executive Order No. 10925 of March 6, 1961, as amended; and substituting therefor the Secretary of Labor, Executive Order No. 11246 of September 24, 1965, and section 204 of Executive Order No. 11246 of September 24, 1965, respectively.

(b) In accordance with regulations of the Secretary of Labor, the rules, regulations, orders, instructions, designations, and other directives referred to in section 403(b) of Executive Order No. 11246, remain in effect and, where applicable, shall be observed in the performance of this contract until revoked or superseded by appropriate authority.



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

DEC 16 2003 Serial Number

ROLLA, MISSOURI 65401

PREFERENCE RIGHT **LEASE** RENEWAL

MNES 1352

## PART I. LEASE RIGHTS GRANTED.

This ☐ Lease ☒ Lease Renewal entered into by and between the UNITED STATES OF AMERICA, through the Bureau of Land Management, hereinafter called lessor, and (Name and Address)

American Copper & Nickel Company  
922 19th Street  
Golden, Colorado 80401

JAN - 1 2004

hereinafter called lessee, is effective (date) , for a period of 10 years,

Sodium, Sulphur, Hardrock -

☒ with preferential right in the lessee to renew for successive periods of 10 years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.

Potassium, Phosphate, Gilsomite -

☐ and for so long thereafter as lessee complies with the terms and conditions of this lease which are subject to readjustment at the end of each year period, unless otherwise provided by law.

Sec. 1. This lease is issued pursuant and subject to the terms and provisions of the:

☐ Mineral Leasing Act of 1920, as amended, and supplemented, 41 Stat. 437, 30 U.S.C. 181-287, hereinafter referred to as the Act;

☐ Mineral Leasing Act for Acquired Lands, Act of August 7, 1947, 61 Stat. 913, 30 U.S.C. 351-359;

☒ Reorganization Plan No. 3 of 1946, 60 Stat. 1099 and 43 U.S.C. 1201;

☐ (Other)

to the regulations and general mining orders of the Secretary of the Interior in force on the date this lease issued.

Sec. 2. Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to explore for, drill for, mine, extract, remove, beneficiate, concentrate, or otherwise process and dispose of the copper deposits nickel

& associated minerals hereinafter referred to as "leased deposits," in, upon, or under the following described lands:

SEE ATTACHED

containing 2,610.07 acres, more or less, together with the right to construct such works, buildings, plants, structures, equipment and appliances and the right to use such on-lease rights-of-way which may be necessary and convenient in the exercise of the rights and privileges granted, subject to the conditions herein provided.

Phosphate -

☐ In accordance with Section 11 of the Act (30 U.S.C. 213), lessee may use deposits of silica, limestone, or other rock in the processing or refining of the phosphates, phosphate rock, and associated or related minerals mined from the leased lands or other lands upon payments of royalty as set forth on the attachment to this lease. (Phosphate leases only.)

In Lake County:

Township 61 North, Range 11 West of the Fourth Principal Meridian:

Section 3, Lot 2  
SW-1/4 of SW-1/4  
S-1/2 of SE-1/4

Section 5, Lots 1 and 2  
S-1/2 of NE-1/4  
Lot 6  
Lot 7  
NE-1/4 of SW-1/4  
S-1/2 of SW-1/4  
N-1/2 of SE-1/4

Section 6, Lots 13, 22, 23 and 24

Section 7, Lots 1, 2, 3, 4, 9, 10, 12, 15, 16 and 19

Section 8, Lots 2 and 6

Section 9, All except W-1/2 of NW-1/4

Section 18, Lots 2, 7, 9, 12, 13, 14, 15, 16, 17, 18  
19 and 20

Section 19, Lots 2, 3, 4, 5, 7 and 8

Township 62 North, Range 11 West of the Fourth Principal Meridian:

Section 27, SE-1/4 of SW-1/4

Section 32, Lot 4

Section 33, Lots 6 and 7

Section 34, NW-1/4

In St. Louis County:

Township 61 North, Range 12 West of the Fourth Principal Meridian:

Section 25, Lot 2  
SW-1/4 of SW-1/4



## PART II. TERMS AND CONDITIONS

Sec. 1. (a) RENTAL RATE - Lessee shall pay lessor rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate indicated below:

*Sulphur, Gilsonite -*

☐ 50 cents for the first lease year and each succeeding lease year;

*Hardrock -*

☐ \$1 for the first lease year and \$1 for each succeeding lease year;

*Phosphate -*

☐ 25 cents for the first lease year, 50 cents for the second and third lease years, and \$1 for each and every lease year thereafter;

*Potassium, Sodium -*

☐ 25 cents for the first calendar year or fraction thereof, 50 cents for the second, third, fourth, and fifth calendar years respectively, and \$1 for the sixth and each succeeding calendar year; or

*Sodium, Sulphur, Asphalt, and Hardrock Renewal Leases -*

☒ \$ 1.00 for each lease year;

(b) RENTAL CREDITS - The rental for any year will be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

Sec. 2. (a) PRODUCTION ROYALTIES - Lessee shall pay lessor a production royalty in accordance with the attached schedule. Such production royalty is due the last day of the month next following the month in which the minerals are sold or removed from the leased lands.

\*(b) MINIMUM ANNUAL PRODUCTION AND MINIMUM ROYALTY - (1) Lessee shall produce on an annual basis a minimum amount of copper, nickel & assoc. mins., except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. Lessor may permit suspension of operations under the lease when marketing conditions are such that the lease cannot be operated except at a loss. (2) At the request of the lessee, made prior to initiation of the lease year, the authorized officer may allow in writing the payment of a \$3.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year. Minimum royalty payments shall be credited to production royalties for that year.

Sec. 3. REDUCTION AND SUSPENSION - In accordance with Section 39 of the Mineral Leasing Act, 30 U.S.C. 209, the lessor reserves the authority to waive, suspend or reduce rental or minimum royalty, or to reduce royalty, and reserves the authority to assent to or order the suspension of this lease.

Sec. 4. BONDS - Lessee shall maintain in the proper office a lease bond in the amount of \$ 5,000.00, or in lieu thereof, an acceptable statewide or nationwide bond. The authorized officer may require an increase in this amount when additional coverage is determined appropriate.

Sec. 5. DOCUMENTS, EVIDENCE AND INSPECTION - At such times and in such form as lessor may prescribe, lessee

shall furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.

Lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of lessor, the leased premises and all surface and underground improvements, work, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.

Lessee shall either submit or provide lessor access to and copying of documents reasonably necessary to verify lessee compliance with terms and conditions of the lease.

While this lease remains in effect, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Sec. 6. DAMAGES TO PROPERTY AND CONDUCT OF OPERATIONS - Lessee shall exercise reasonable diligence, skill, and care in the operation of the property, and carry on all operations in accordance with approved methods and practices as provided in the operating regulations, having due regard for the prevention of injury to life, health or property, and of waste or damage to any water or mineral deposits.

Lessee shall not conduct exploration or operations, other than casual use, prior to receipt of necessary permits or approval of plans of operations by lessor.

Lessee shall carry on all operations in accordance with approved methods and practices as provided in the operating regulations, and the approved mining plans in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, minerals, and other resources, and to other land uses or users. Lessee shall take measures deemed necessary by lessor to accomplish the intent of this lease term. Such measures may include, but are not limited to, modification to proposed siting or design of facilities, timing of operations, and specification of interim and final reclamation procedures.

Lessor reserves to itself the right to lease, sell, or otherwise dispose of the surface or other mineral deposits in the lands and the right to continue existing uses and to authorize future uses upon or in the leased lands, including issuing leases for mineral deposits not covered hereunder or the approval of easements or rights-of-way. Lessor shall condition such uses to prevent unnecessary or unreasonable interference with rights of lessee as may be consistent with concepts of multiple use and multiple mineral development.

Sec. 7. PROTECTION OF DIVERSE INTERESTS, AND EQUAL OPPORTUNITY - Lessee shall: pay when due all taxes legally assessed and levied under the laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States; maintain a safe working environment in accordance with standard industry practices; restrict the workday to not more than 8 hours in any one day for underground workers, except in emergencies; and take measures necessary to protect the health and safety of the public. No person under the age of 16 years shall be employed in any mine below the surface. To the extent that laws of the State in which the lands are

... situated are more restrictive than the provisions in this paragraph, then the State laws apply.

Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec. 8. (a) TRANSFERS - This lease may be transferred in whole or in part to any person, association or corporation qualified to hold such lease interest.

(b) RELINQUISHMENT - The lessee may relinquish in writing at any time all rights under this lease or any portion thereof as provided in the regulations. Upon lessor's acceptance of the relinquishment, lessee shall be relieved of all future obligations under the lease or the relinquished portion thereof, whichever is applicable.

Sec. 9. DELIVERY OF PREMISES, REMOVAL OF MACHINERY, EQUIPMENT, ETC. - At such time as all or portions of this lease are returned to lessor, lessee shall deliver up to lessor the land leased, underground timbering, and such other supports and structures necessary for the preservation of the mine workings on the leased premises or deposits and place all wells in condition for suspension or abandonment. Within 180 days thereof, lessee shall remove from the premises all other structures, machinery, equipment, tools, and materials that it elects to or as required by the authorized officer. Any such structures, machinery, equipment, tools, and materials remaining on the leased lands beyond 180 days, or approved extension thereof, shall become the property of the lessor, but lessee shall either remove any or all such property or shall continue to be liable for the cost of removal and disposal in the amount actually incurred by the lessor. If the surface is owned by third parties, lessor shall waive the requirement for removal, provided the third parties do not object to such

waiver. Lessee shall, prior to the termination of bond liability or at any other time when required and in accordance with all applicable laws and regulations, reclaim all lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities on the leased lands, and reclaim access roads or trails.

Sec. 10. PROCEEDINGS IN CASE OF DEFAULT - If lessee fails to comply with applicable laws, now existing regulations, or the terms, conditions and stipulations of this lease, and the noncompliance continues for 30 days after written notice thereof, this lease shall be subject to cancellation by the lessor only by judicial proceedings. This provision shall not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver shall not prevent later cancellation for the same default occurring at any other time.

Sec. 11. HEIRS AND SUCCESSORS-IN-INTEREST - Each obligation of this lease shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. INDEMNIFICATION - Lessee shall indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under this lease.

Sec. 13. SPECIAL STATUTES - This lease is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151-1175), the Clean Air Act (42 U.S.C. 1857 et. seq.), and to all other applicable laws pertaining to exploration activities, mining operations and reclamation.

Sec. 14. SPECIAL STIPULATIONS -

\* The terms and conditions of the production royalties remains as stated in the attached original lease agreement.

\*\* The minimum annual production and minimum royalty is \$10.00 per acre or a fraction thereof as stated in the attached original lease agreement.

Sec. 14. SPECIAL STIPULATIONS - (Cont.)

THE UNITED STATES OF AMERICA

AMERICAN COPPER & NICKEL COMPANY INC.  
Company or Lessee Name

DJ Rush  
(Signature of Lessee)

PRESIDENT  
(Title)

NOVEMBER 26, 2003  
(Date)

By

Sharon Brown  
(Signing Officer)

Authorized Officer  
(Title)

DEC 05 2003  
(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

NOTICE

The Privacy Act of 1974 and the regulations in 43 CFR 2.48(d) provides that you be furnished the following information in connection with information required under the terms of this lease.

AUTHORITY: 30 U.S.C. 181 et seq.; 43 CFR 3500.

PRINCIPAL PURPOSE: The information will be used to verify your compliance with the lease terms and in calculating royalty payments.

ROUTINE USES: (1) Evaluation of the effects of the operations on the environment. (2) Statistical reports to Congress. (3)(4) and (5) Information from the record and/or the record may be released or transferred to appropriate Federal, State or local agencies in allocating mineral revenue, for investigations of energy programs; and when relevant to civil, criminal or regulatory investigations or prosecutions, as well as routine regulatory responsibility.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of this information is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected for use in calculating royalty payments and in verification of compliance with lease terms. Response to this request is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

DEC 16 2003 Serial Number

ROLLA, MISSOURI 65401

PREFERENCE RIGHT LEASE RENEWAL

MNES 1353

## PART I. LEASE RIGHTS GRANTED.

This ☐ Lease ☒ Lease Renewal entered into by and between the UNITED STATES OF AMERICA, through the Bureau of Land Management, hereinafter called lessor, and (Name and Address)

American Copper & Nickel Company  
922 19th Street

Golden, Colorado 80401  
hereinafter called lessee, is effective (date)

JAN - 1 2004

, for a period of 10 years,

Sodium, Sulphur, Hardrock -

☒ with preferential right in the lessee to renew for successive periods of 10 years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.

Potassium, Phosphate, Gilsonite -

☐ and for so long thereafter as lessee complies with the terms and conditions of this lease which are subject to readjustment at the end of each year period, unless otherwise provided by law.

Sec. 1. This lease is issued pursuant and subject to the terms and provisions of the:

☐ Mineral Leasing Act of 1920, as amended, and supplemented, 41 Stat. 437, 30 U.S.C. 181-287, hereinafter referred to as the Act;

☐ Mineral Leasing Act for Acquired Lands, Act of August 7, 1947, 61 Stat. 913, 30 U.S.C. 351-359;

☒ Reorganization Plan No. 3 of 1946, 60 Stat. 1099 and 43 U.S.C. 1201;

☐ (Other)

; and

to the regulations and general mining orders of the Secretary of the Interior in force on the date this lease issued.

Sec. 2. Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to explore for, drill for, mine, extract, remove, beneficiate, concentrate, or otherwise process and dispose of the copper deposits nickel & associated minerals hereinafter referred to as "leased deposits," in, upon, or under the following described lands:

SEE ATTACHED

containing 2,254.71 acres, more or less, together with the right to construct such works, buildings, plants, structures, equipment and appliances and the right to use such on-lease rights-of-way which may be necessary and convenient in the exercise of the rights and privileges granted, subject to the conditions herein provided.

Phosphate -

☐ In accordance with Section 11 of the Act (30 U.S.C. 213), lessee may use deposits of silica, limestone, or other rock in the processing or refining of the phosphates, phosphate rock, and associated or related minerals mined from the leased lands or other lands upon payments of royalty as set forth on the attachment to this lease. (Phosphate leases only.)

In Lake County:

Township 62 North, Range 10 West of the Fourth Principal Meridian:

Section 19, All

Section 20, SW-1/4

Section 29, N-1/2

Section 30, N-1/2

Lot 3 (NW-1/4 of SW-1/4)

Township 62 North, Range 11 West of the Fourth Principal Meridian:

Section 24, Lot 7

SE-1/4 of SW-1/4

S-1/2 of SE-1/4

Section 25, N-1/2

W-1/2 of SW-1/4 [undivided one-half interest

NE-1/4 of SE-1/4

Section 26, S-1/2 of NE-1/4

NE-1/4 of SW-1/4

E-1/2 of SE-1/4 [undivided one-half interest



## PART II. TERMS AND CONDITIONS

Sec. 1. (a) RENTAL RATE - Lessee shall pay lessor rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate indicated below:

*Sulphur, Gilsonite -*

☐ 50 cents for the first lease year and each succeeding lease year;

*Hardrock -*

☐ \$1 for the first lease year and \$1 for each succeeding lease year;

*Phosphate -*

☐ 25 cents for the first lease year, 50 cents for the second and third lease years, and \$1 for each and every lease year thereafter;

*Potassium, Sodium -*

☐ 25 cents for the first calendar year or fraction thereof, 50 cents for the second, third, fourth, and fifth calendar years respectively, and \$1 for the sixth and each succeeding calendar year; or

*Sodium, Sulphur, Asphalt, and Hardrock Renewal Leases -*

☒ \$ 1.00 for each lease year;

(b) RENTAL CREDITS - The rental for any year will be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

Sec. 2. (a) PRODUCTION ROYALTIES - Lessee shall pay lessor a production royalty in accordance with the attached schedule. Such production royalty is due the last day of the month next following the month in which the minerals are sold or removed from the leased lands.

\* (b) MINIMUM ANNUAL PRODUCTION AND MINIMUM ROYALTY - (1) Lessee shall produce on an annual basis a minimum amount of copper, nickel, & assoc. mins., except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. Lessor may permit suspension of operations under the lease when marketing conditions are such that the lease cannot be operated except at a loss. (2) At the request of the lessee, made prior to initiation of the lease year, the authorized officer may allow in writing the payment of a \$3.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year. Minimum royalty payments shall be credited to production royalties for that year.

Sec. 3. REDUCTION AND SUSPENSION - In accordance with Section 39 of the Mineral Leasing Act, 30 U.S.C. 209, the lessor reserves the authority to waive, suspend or reduce rental or minimum royalty, or to reduce royalty, and reserves the authority to assent to or order the suspension of this lease.

Sec. 4. BONDS - Lessee shall maintain in the proper office a lease bond in the amount of \$ 5,000, or in lieu thereof, an acceptable statewide or nationwide bond. The authorized officer may require an increase in this amount when additional coverage is determined appropriate.

Sec. 5. DOCUMENTS, EVIDENCE AND INSPECTION - At such times and in such form as lessor may prescribe, lessee

shall furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.

Lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of lessor, the leased premises and all surface and underground improvements, work, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.

Lessee shall either submit or provide lessor access to and copying of documents reasonably necessary to verify lessee compliance with terms and conditions of the lease.

While this lease remains in effect, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Sec. 6. DAMAGES TO PROPERTY AND CONDUCT OF OPERATIONS - Lessee shall exercise reasonable diligence, skill, and care in the operation of the property, and carry on all operations in accordance with approved methods and practices as provided in the operating regulations, having due regard for the prevention of injury to life, health or property, and of waste or damage to any water or mineral deposits.

Lessee shall not conduct exploration or operations, other than casual use, prior to receipt of necessary permits or approval of plans of operations by lessor.

Lessee shall carry on all operations in accordance with approved methods and practices as provided in the operating regulations, and the approved mining plans in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, minerals, and other resources, and to other land uses or users. Lessee shall take measures deemed necessary by lessor to accomplish the intent of this lease term. Such measures may include, but are not limited to, modification to proposed siting or design of facilities, timing of operations, and specification of interim and final reclamation procedures.

Lessor reserves to itself the right to lease, sell, or otherwise dispose of the surface or other mineral deposits in the lands and the right to continue existing uses and to authorize future uses upon or in the leased lands, including issuing leases for mineral deposits not covered hereunder or the approval of easements or rights-of-way. Lessor shall condition such uses to prevent unnecessary or unreasonable interference with rights of lessee as may be consistent with concepts of multiple use and multiple mineral development.

Sec. 7. PROTECTION OF DIVERSE INTERESTS, AND EQUAL OPPORTUNITY - Lessee shall: pay when due all taxes legally assessed and levied under the laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States; maintain a safe working environment in accordance with standard industry practices; restrict the workday to not more than 8 hours in any one day for underground workers, except in emergencies; and take measures necessary to protect the health and safety of the public. No person under the age of 16 years shall be employed in any mine below the surface. To the extent that laws of the State in which the lands are

situated are more restrictive than the provisions in this paragraph, then the State laws apply.

Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec. 8. (a) TRANSFERS - This lease may be transferred in whole or in part to any person, association or corporation qualified to hold such lease interest.

(b) RELINQUISHMENT - The lessee may relinquish in writing at any time all rights under this lease or any portion thereof as provided in the regulations. Upon lessor's acceptance of the relinquishment, lessee shall be relieved of all future obligations under the lease or the relinquished portion thereof, whichever is applicable.

Sec. 9. DELIVERY OF PREMISES, REMOVAL OF MACHINERY, EQUIPMENT, ETC. - At such time as all or portions of this lease are returned to lessor, lessee shall deliver up to lessor the land leased, underground timbering, and such other supports and structures necessary for the preservation of the mine workings on the leased premises or deposits and place all wells in condition for suspension or abandonment. Within 180 days thereof, lessee shall remove from the premises all other structures, machinery, equipment, tools, and materials that it elects to or as required by the authorized officer. Any such structures, machinery, equipment, tools, and materials remaining on the leased lands beyond 180 days, or approved extension thereof, shall become the property of the lessor, but lessee shall either remove any or all such property or shall continue to be liable for the cost of removal and disposal in the amount actually incurred by the lessor. If the surface is owned by third parties, lessor shall waive the requirement for removal, provided the third parties do not object to such

waiver. Lessee shall, prior to the termination of bond liability or at any other time when required and in accordance with all applicable laws and regulations, reclaim all lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities on the leased lands, and reclaim access roads or trails.

Sec. 10. PROCEEDINGS IN CASE OF DEFAULT - If lessee fails to comply with applicable laws, now existing regulations, or the terms, conditions and stipulations of this lease, and the noncompliance continues for 30 days after written notice thereof, this lease shall be subject to cancellation by the lessor only by judicial proceedings. This provision shall not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver shall not prevent later cancellation for the same default occurring at any other time.

Sec. 11. HEIRS AND SUCCESSORS-IN-INTEREST - Each obligation of this lease shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. INDEMNIFICATION - Lessee shall indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under this lease.

Sec. 13. SPECIAL STATUTES - This lease is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151-1175), the Clean Air Act (42 U.S.C. 1857 et. seq.), and to all other applicable laws pertaining to exploration activities, mining operations and reclamation.

Sec. 14. SPECIAL STIPULATIONS -

\* The terms and conditions of the production royalties remains as stated in the attached original lease agreement.

\*\* The minimum annual production and minimum royalty is \$10.00 per acre or a fraction thereof as stated in the attached original lease agreement.

Sec. 14. SPECIAL STIPULATIONS - (Cont.)

THE UNITED STATES OF AMERICA

AMERICAN COPPER & NICKEL COMPANY INC.  
Company or Lessee Name

DJ Rusel  
(Signature of Lessee)

PRESIDENT  
(Title)

NOVEMBER 26, 2003  
(Date)

By

Sharon Brown  
(Signing Officer)

Authorized Officer  
(Title)

DEC 05 2003  
(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

NOTICE

The Privacy Act of 1974 and the regulations in 43 CFR 2.48(d) provides that you be furnished the following information in connection with information required under the terms of this lease.  
AUTHORITY: 30 U.S.C. 181 et seq.; 43 CFR 3500.

PRINCIPAL PURPOSE: The information will be used to verify your compliance with the lease terms and in calculating royalty payments.

ROUTINE USES: (1) Evaluation of the effects of the operations on the environment. (2) Statistical reports to Congress. (3)(4) and (5) Information from the record and/or the record may be released or transferred to appropriate Federal, State or local agencies in allocating mineral revenue, for investigations of energy programs; and when relevant to civil, criminal or regulatory investigations or prosecutions, as well as routine regulatory responsibility.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of this information is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected for use in calculating royalty payments and in verification of compliance with lease terms. Response to this request is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.





# United States Department of the Interior

## OFFICE OF THE SOLICITOR

1849 C STREET N.W.  
WASHINGTON, DC 20240

M-37036

**MAR - 8 2016**

### Memorandum

To: Director, Bureau of Land Management

From: Solicitor

Subject: Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-01353)

The Bureau of Land Management (BLM) has asked whether it has the discretion to grant or deny Twin Metals Minnesota's pending application for renewal of two hardrock preference right leases in northern Minnesota.<sup>1</sup> I conclude that Twin Metals Minnesota does not have a non-discretionary right to renewal, but rather the BLM has discretion to grant or deny the pending renewal application.

### Background

On October 21, 2012, Twin Metals Minnesota (TMM) submitted an application to renew two preference right leases (MNES-01352 and MNES-01353) for lands that are located near the southern boundary of the Boundary Waters Canoe Area Wilderness in northern Minnesota.<sup>2</sup>

The two leases at issue are located on acquired Weeks Act lands, as well as National Forest System lands reserved from the public domain and managed by the United States Forest Service. The Secretary's authority, delegated to the BLM, for mineral disposition on the acquired lands is in section 402 of Reorganization Plan No. 3 of 1946, 60 Stat. 1097, 1099-1100, and 16 U.S.C. § 520, which governs mineral disposition on Weeks Act lands. The Secretary's authority, delegated to the BLM, for mineral disposition on reserved National Forest System lands in Minnesota is in 16 U.S.C. § 508b.

The BLM originally awarded the leases on June 1, 1966, for a primary term of twenty years, with the possibility of three ten-year renewals.<sup>3</sup> On May 14, 1986, the lessee timely applied for a renewal.<sup>4</sup> After receiving legal advice from the Office of the Solicitor that the lease terms allowed for a renewal, the BLM granted a renewal of the leases on July 1, 1989, for a period of

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<sup>1</sup> This memorandum does not address issues related to National Environmental Policy Act compliance or any other legal issues surrounding these leases.

<sup>2</sup> The Chippewa in Minnesota have hunting, fishing, and other usufructuary rights in the northeast portion of the state of Minnesota under the 1854 Treaty of LaPointe. Treaty with the Chippewa, 10 Stat. 1109 (1854).

<sup>3</sup> See 1966 leases §§ 1(a), 5.

<sup>4</sup> The regulations at 43 C.F.R. § 3522.1-1 (1985) state that renewal applications "must be filed in the appropriate land office within 90 days prior to the expiration of the lease term." The lessee filed an application for extension of the term of the leases on May 14, 1986—30 days before the end of the primary twenty-year term on June 14, 1986, which was "within 90 days" of the lease expiration. Consequently, the renewal application was timely filed.

ten years.<sup>5</sup> TMM timely applied for a second renewal on March 15, 1999. The BLM renewed the leases on January 1, 2004.<sup>6</sup> The 2004 leases state that they are for a period of ten years, “with preferential right in the lessee to renew for successive periods of 10 years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.” On October 21, 2012, TMM timely applied to renew the leases once more.<sup>7</sup> TMM has been conducting exploration activities on the leaseholds based on the 2004 leases while the BLM considers TMM’s 2012 renewal application.

Under the original 1966 lease terms, as discussed more fully below, the lessee was required to commence production within the twenty-year primary term to qualify for three renewals of right. The leases provided that if there was no production at the end of the primary term, the leases would end unless the Secretary granted a lease renewal to extend the time to commence production.<sup>8</sup>

Although there has been no production, the operator held the leases under production waivers for five years and then through payment of minimum royalties in lieu of production payments for the rest of the time, consistent with the provisions of the 1966 leases that were incorporated by reference in the 2004 leases. Those provisions stated that, beginning after the tenth year of the primary term, the lessee is required to mine a quantity of minerals such that the royalties would be equal to \$5 per annum per acre for the primary term and \$10 per annum per acre during each renewal or, in lieu of that production, pay royalties equal to the minimum royalty. *See* 1966 leases § 2(c) (incorporated into section 14 of the 2004 leases). Section 2(c) of the 1966 leases allowed the lessor to waive, reduce, or suspend the minimum royalty payment for reasonable periods of time in the interest of conservation or when such action does not adversely affect the interest of the United States in accordance with 43 C.F.R. § 3222.6-2. *Id.*

According to the BLM’s records, the BLM relied on section 2(c) of the 1966 leases to grant individual waivers of production and minimum royalties for each of the first five lease years after the tenth year of the leases, beginning on June 1, 1976, and ending May 31, 1981, while the State of Minnesota was conducting environmental studies on the proposed mining operations,

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<sup>5</sup> The three-year time period between the date on which the lessee filed for the first ten-year lease renewal and the date on which the lease renewal was approved appears to have been due to BLM’s consideration of the lessee’s minimum royalty waiver request, coordination efforts between the United State Forest Service and the BLM regarding the Forest Service approval for the renewals, and the BLM’s consideration regarding the terms of the lease renewal.

<sup>6</sup> The lessee’s application for a second renewal on March 15, 1999 was 109 days before the end of the first lease renewal on July 1, 1999. The regulations in force in 1999 state that “[a]n application for lease renewal shall be filed at least 90 days prior to the expiration of the lease term.” 43 C.F.R. § 3528.1 (1998). Consequently, the 1999 renewal application was timely filed. The time period between the lessee’s filing of the second renewal application in March 1999 and the BLM’s approval of the lease renewal in January 2004 appears to have been due to coordination efforts between the United States Forest Service and the BLM, as well as the BLM’s internal review process.

<sup>7</sup> The 2012 renewal application was submitted 438 days before the end of the second renewal on January 1, 2014. The timing requirements for filing a renewal application in the current regulations are the same as those in the regulations that were in force in 1999. *Id.* § 3511.27 (2015). Consequently, the 2012 application was timely filed.

<sup>8</sup> Section 5 of the 1966 leases contains definite conditions for allowing such an extension, i.e., in the interest of conservation or upon a satisfactory showing by the lessee that the lease cannot be successfully operated at a profit or for other reasons.

which prevented INCO Alloys International, Inc. (TMM's predecessor in interest at the time of BLM's waiver decision), from developing the leases.<sup>9</sup>

The BLM records show that INCO filed another production and minimum royalty waiver request on June 26, 1985, for the period of July 1, 1981, to June 30, 1986. In response, the BLM issued a decision on January 28, 1987, finding that Minnesota had completed its environmental studies in 1979 and that INCO had not filed any mining applications or royalty waiver applications since 1981. The decision stated that "there is no evidence that INCO International is diligently working towards the development of these leases." Based on the BLM's conclusion that INCO had not met the obligations of the leases, the agency denied the production and royalty waiver request. The decision also notified the lessee that all delinquent payments were due before the BLM could process the first lease renewals at that time.<sup>10</sup> Although the BLM's records show that INCO failed to timely pay the annual rentals and minimum royalties in lieu of production for the lease years from June 1, 1981, to May 31, 1985 (a four-year period), once INCO received notice from the BLM about the delinquency, INCO paid the fees for all four years. Consequently, the royalty payment records of the Office of Natural Resources Revenue (ONRR) show that TMM and its predecessors paid the minimum royalties in lieu of production for each of the delinquent years—1981 to 1985. The ONRR records also show that TMM paid the minimum royalty in lieu of production payments from 1986 to the present.

In preparing to respond to the 1985 royalty waiver request, the BLM sought legal advice from the Solicitor's Office, which led to a 1986 legal memorandum regarding the use of one of the three renewals identified in section 5 of the 1966 leases to extend the time to commence production. This 1986 Associate Solicitor's Opinion is discussed below in this memorandum.<sup>11</sup>

As to the rental payments, the regulations in effect before 1986 provided that the "rental paid for any year shall be credited against any royalties for that year." 43 C.F.R. § 3503.3-1(b)(5) (1985). Beginning in 1999, the regulations have provided that the Minerals Management Service (now ONRR) "will credit your lease rental for any year against the first production royalties or minimum royalties . . . as the royalties accrue under the lease during that year." *Id.* § 3504.16(e) (2014). The ONRR records show that TMM has paid the rentals and those payments have been recouped for payment of a portion of the minimum royalty payments.

#### Relevant Lease Provisions

Three provisions in the 2004 leases are pertinent to whether TMM has a non-discretionary right to renewal:

##### Part I. Lease Rights Granted:

This Lease Renewal entered into by and between the United States of America, through the Bureau of Land Management, hereinafter called lessor, and American Copper &

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<sup>9</sup> These annual waivers, beginning in June 1976 and ending in May 1981, served to waive the production and minimum royalty requirements of the leases for that time period. The notification letters that BLM sent to the lessee for each of these waivers state that a waiver of production and minimum royalty requirements is granted and do not state that the lease term is being extended for the period of the suspension.

<sup>10</sup> As noted above, the lessee applied for its first lease renewal in May 1986. Under the 1966 lease terms, the twenty-year primary term was due to expire in June 1986.

<sup>11</sup> See *infra* p. 12.

Nickel Company, 922 19<sup>th</sup> Street, Golden, Colorado, 80401, hereinafter called lessee, is effective Jan-1 2004, for a period of 10 years, *Sodium, Sulphur, Hardrock* – with preferential right in the lessee to renew for successive periods of 10 years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.

Part I, Section 2:

Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to explore for, drill for, mine, extract, remove, beneficiate, concentrate, or otherwise process and dispose of the copper deposits nickel & associated minerals hereinafter referred to as “leased deposits,” in, upon, or under the following described lands: . . . .

Part II, Section 14. Special Stipulations:

\* The terms and conditions of the production royalties remains as stated in the attached original lease agreement [referring to the 1966 lease].

\*\* The minimum annual production and minimum royalty is \$10.00 per acre or a fraction thereof as stated in the attached original lease agreement [referring to the 1966 lease].

Because the provisions of the 2004 leases govern for the reasons set forth below, the renewal provisions of the 1966 leases are not applicable. Nevertheless, to provide a comprehensive analysis, the renewal provisions of the 1966 leases are discussed in the analysis that follows.

The three relevant provisions in the 1966 leases are:

Introductory clause:

This lease entered into . . . between the United States of America, as Lessor, through the Bureau of Land Management, and [TMM’s predecessor], as Lessee, pursuant to the authority set out in, and subject to, Section 402 of the President’s Reorganization Plan No. 3 of 1946, 60 Stat. 1099, and the Act of June 30, 1950, 64 Stat. 311, and to all regulations of the Secretary of the Interior now in force when not inconsistent with any of the provisions herein.

Section 1(a):

Rights of Lessee. In consideration of the rents and royalties to be paid and conditions and covenants to be observed as herein set forth the Lessor grants to the Lessee, subject to all privileges and uses heretofore duly authorized and prior valid claims, the exclusive right to mine, remove, and dispose of all the copper and/or nickel minerals and associated minerals . . . in, upon, or under [the described lands] . . . together with the right to construct and maintain thereon such structures and other facilities as may be necessary or convenient for the mining, preparation, and removal of said minerals, for a period of twenty (20) years with a right in the Lessee to renew the same for successive

periods of ten (10) years each in accordance with regulation 43 C.F.R. § 3221.4(f) and the provisions of this lease.

#### Section 5:

Renewal Terms. The Lessor shall have the right to reasonably readjust and fix royalties payable hereunder at the end of the primary term of this lease and thereafter at the end of each successive renewal thereof unless otherwise provided by the law at the time of the expiration of any such period, and to readjust other terms and conditions of the lease, including the revision of or imposition of stipulations for the protection of the surface of the land as may be required by the agency having jurisdiction thereof; provided, however, that the Lessee shall have the right to three successive ten-year renewals of this lease with any readjustment in the royalties payable hereunder limited to that hereinafter provided and with no readjustment of any of the other terms and conditions of this lease unless at the end of the primary term of this lease the Lessee shall not have begun production, either hereunder or under the companion lease granted to the Lessee this day. The Secretary of the Interior may grant extensions of time for commencement of production in the interest of conservation or upon a satisfactory showing by the Lessee that the lease cannot be successfully operated at a profit or for other reasons, and the Lessee shall be entitled to renewal as herein provided without readjustment except of royalties payable hereunder if at the end of the primary or renewal period such an extension shall be in effect, but the Lessee shall not be entitled to subsequent such renewals unless it shall have begun production within the extended time. If the Lessee shall be entitled to renewal without readjustment except of royalties payable hereunder, the Secretary of the Interior may in his discretion increase the royalty rate prescribed in subsection (b) of Section 2 up to, but not exceeding (i) 5% during the first ten-year renewal period, (ii) 6% during the second ten-year renewal period, and (iii) 7% during the third ten-year renewal period. The extent of readjustment of royalty, if any to be made under this section shall be determined prior to the commencement of the renewal period.

#### Analysis

The renewal rights of TMM are governed by the applicable provisions of leases MNES 01352 and MNES 01353. At this time, the 2004 renewal leases are in effect, and they use the BLM's standard renewal language that has been in place since the 1980s. In particular, the 2004 lease renewal terms grant the "preferential right in the lessee to renew for successive periods of ten years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period." The Department has consistently interpreted this provision as not entitling the lessee to an automatic right of renewal: "This *preferential* right of renewal does not *entitle* the lessee to renewal of the lease but 'gives the renewal lease applicant the legal right to be preferred against other parties, should the Secretary, in the exercise of his discretion, decide to continue leasing.'" *Gen. Chem. (Soda Ash) Partners*, 176 IBLA 1, 3 (2008) (emphasis in original) (quoting *Sodium Lease Renewals*, M-36943, 89 Interior Dec. 173, 178 (1982) (1982 Solicitor's Opinion)). The Interior Board of Land Appeals (IBLA) noted further that the "Secretary may exercise his discretionary authority in renewing a lease in the same manner as in issuing an initial lease." *Id.*

In reaching this conclusion, I have carefully considered TMM's contention that the terms of the 1966 leases govern and require the BLM to renew the leases for a third ten-year term. As discussed below, I have concluded that the terms of the 2004 leases govern and that, in any event, the renewal provisions of the 1966 leases give the BLM discretion regarding whether to renew the leases.

The 2004 leases are each complete, integrated documents that contain all necessary lease terms and are duly signed by the lessee and lessor. The degree to which the original 1966 leases continue in effect are specifically described in the 2004 leases, with two special stipulations that incorporate by reference only two provisions from the 1966 leases. 2004 leases § 14. The first stipulation states that the "terms and conditions of the production royalties remains as stated in the attached original lease agreement." The second states that the "minimum annual production and minimum royalty is \$10.00 per acre or fraction thereof as stated in the attached original lease agreement." Neither of these imported provisions includes the lease renewal provisions of the 1966 leases. Consequently, since at least the time that the BLM and the lessee signed the 2004 lease renewals, the renewal provisions of the 1966 leases have no longer applied and the only renewal terms are those described in the 2004 leases, as quoted in the previous paragraph. Based on that well understood and unambiguous renewal language, the BLM has the same discretionary authority in considering whether to renew the 2004 leases as it had in issuing the initial 1966 leases.

In a recent memorandum to me from TMM's legal counsel,<sup>12</sup> TMM asks the BLM to ignore the plain renewal terms of the 2004 leases and instead apply the renewal provisions of the 1966 leases. TMM relies on extrinsic evidence, placing heavy reliance on the circumstances leading up to the earlier 1989 renewal, which TMM asserts provide evidence that the BLM intended to simply renew the leases under the exact same terms of the 1966 leases. TMM further asserts that the 2004 renewal, because it was executed using the same forms, must also have intended to renew the 1966 leases without any change in terms.

As explained below in the discussion of the 1966 lease terms, the 1989 and 2004 renewals differ from each other because the BLM's discretion was limited in 1989 but not in 2004. In particular, the 1989 renewal served as a one-time extension of time for commencement of production, as authorized under section 5 of the 1966 leases. But section 5 also states that if an extension is granted, the renewal must be on unaltered terms (other than royalty). Accordingly, under section 5 of the 1966 leases, the 1989 renewal was effectively a ten-year extension of the 1966 lease terms, and the use of standard renewal forms in 1989 could have no effect other than to extend the leases for ten years to allow for commencement of production. But because no production commenced during that extension, TMM was not entitled to any subsequent production extensions or renewals under the 1966 lease terms, so the BLM had discretion in 2004 over both whether to renew and the terms of any such renewal. The executed renewal in 2004 therefore has operative effect, and the plain language of the 2004 leases actually executed by the parties must be given effect. There is nothing in the duly executed 2004 leases that states that the 1966 terms somehow govern over the terms expressly set out in the 2004 leases.

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<sup>12</sup> Memorandum from I. Daniel Colton, Partner, Dorsey & Whitney LLP, received under a cover letter dated January 26, 2016, to me from Kevin L. Baker, Director, Legal Affairs, Twin Metals Minnesota, LLC.



TMM's reliance on extrinsic evidence to attempt to negate the 2004 lease terms does not comply with the law of contracts. In the absence of ambiguity in the relevant lease provision, it is improper to rely on extrinsic evidence. *See Coast Fed. Bank, FSB v. United States*, 323 F.3d 1035, 1040 (Fed. Cir. 2006) (en banc) ("If the provisions are clear and unambiguous, they must be given their plain and ordinary meaning, and we may not resort to extrinsic evidence to interpret them." (internal quotation marks and citation omitted)); *see also Shell Oil Co. v. United States*, 751 F.3d 1282, 1295 (Fed. Cir. 2014) (improper for government to rely on extrinsic evidence when contract provision is unambiguous); *Thoman v. Bureau of Land Mgmt. (on recon.)*, 155 IBLA 266, 267 (2001) ("If the contract language is clear and unambiguous, the terms of the agreement are given plain meaning and the intent of the parties and the interpretation of the agreement will be determined from the four corners of the document alone." (internal citations omitted)). Under this objective law of contracts, the subjective intent of the parties is not relevant unless there is fraud, duress, or mutual mistake, none of which is alleged by TMM. *See Armenian Assembly of Am., Inc. v. Cafesjian*, 758 F.3d 265, 278 (D.C. Cir. 2014) ("[T]he 'objective' law of contracts . . . generally means that 'the written language embodying the terms of an agreement will govern the rights and liabilities of the parties, [regardless] of the intent of the parties at the time they entered into the contract, unless the written language is not susceptible of a clear and definite undertaking, or unless there is fraud, duress, or mutual mistake.'" (alteration in original) (citations omitted)).

In this case, there is nothing ambiguous with the renewal provision contained in the 2004 leases: there is no conflicting renewal provision referenced elsewhere in the 2004 leases and the provision has a longstanding and well established meaning. While TMM has asserted that the "preferential right" to renew is ambiguous because it is susceptible of more than one meaning, that argument is without merit.<sup>13</sup> TMM misinterprets the 1982 Solicitor's Opinion, which held that the preference right to renew "gives the renewal lease applicant the legal right to be preferred against other parties should the Secretary, in the proper exercise of his discretion, decide to continue leasing." 1982 Solicitor's Opinion, 89 Interior Dec. at 178. In reaching this conclusion, the Solicitor included a discussion of the meaning of "preference right leases." That discussion focused on the rights gained in the *initial* leasing decision, and distinguished between "entitlement" leases, which are leases to which an applicant is by statute entitled to receive if it meets statutory criteria, and true "preference right leases," which are issued only if the Secretary decides to lease. *See id.* Based on this discussion, TMM asserts it is ambiguous whether its leases are entitlement leases or preference right leases. Even if this distinction altered renewal rights, which is an issue that does not need to be addressed for purposes of this memorandum, there is no ambiguity in this case. Neither of the statutory authorities under which the leases are issued—section 402 of Reorganization Plan No. 3 of 1946, 60 Stat. 1097, 1099-1100, and 16 U.S.C. § 508b—creates an entitlement to a lease or otherwise mandates the issuance of leases. To the contrary, both authorities expressly condition leasing on surface owner consent (in this instance the discretion of the Forest Service) and thus are discretionary. In short, there is no ambiguity, and the renewal provisions in the 2004 leases provide the BLM with discretion to decide whether to renew the leases.

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<sup>13</sup> A lease is not ambiguous merely because the parties disagree on the correct interpretation. *Thoman*, 155 IBLA at 267 (citing *Pollock v. Fed. Deposit Ins. Corp.*, 17 F.3d 798, 803 (5th Cir. 1994); *Stichting Mayflower Recreational Fonds v. Newpark Res., Inc.*, 917 F.2d 1239, 1247 (10th Cir. 1990)).

Finally, even if the 1966 lease renewal terms were in effect, they do not prohibit the BLM from exercising its discretion to decide whether to renew the leases. Section 1(a) of the 1966 leases granted to the lessee “the exclusive right to mine, remove, and dispose of all the copper and/or nickel minerals and associated minerals . . . .” It also provided that renewal of the leases beyond the primary term is subject to 43 C.F.R. § 3221.4(f) (1966) and the provisions of the lease. Section 3221.4(f) provides that the lessee “will be granted a right of renewal for successive periods, not exceeding 10 years each, under such reasonable terms and conditions as the Secretary of the Interior may prescribe, including the revision of or imposition of stipulations for the protection of the surface of the land as may be required by the agency having jurisdiction thereover.” Based on this regulation, the BLM included a conditional renewal provision in section 5 of the 1966 leases.

Section 5 of the 1966 leases describes both the conditions with which the lessee must comply to establish a right to renew the lease and the limitations on revisions to the lease terms when the lessee does have a right to renewal:

**Renewal Terms.** The Lessor shall have the right to reasonably readjust and fix royalties payable hereunder at the end of the primary term of this lease and thereafter at the end of each successive renewal thereof unless otherwise provided by the law at the time of the expiration of any such period, and to readjust other terms and conditions of the lease, including the revision of or imposition of stipulations for the protection of the surface of the land as may be required by the agency having jurisdiction thereover; **provided, however, that the Lessee shall have the right to three successive ten-year renewals of this lease with any readjustment in the royalties payable hereunder limited to that hereinafter provided and with no readjustment of any of the other terms and conditions of this lease unless at the end of the primary term of this lease the Lessee shall not have begun production, either hereunder or under the companion lease granted to the Lessee this day. The Secretary of the Interior may grant extensions of time for commencement of production in the interest of conservation or upon a satisfactory showing by the Lessee that the lease cannot be successfully operated at a profit or for other reasons, and the Lessee shall be entitled to renewal as herein provided without readjustment except of royalties payable hereunder if at the end of the primary or renewal period such an extension shall be in effect, but the Lessee shall not be entitled to subsequent such renewals unless it shall have begun production within the extended time.** *If the Lessee shall be entitled to renewal without readjustment except of royalties payable hereunder, the Secretary of the Interior may in his discretion increase the royalty rate prescribed in subsection (b) of Section 2 up to, but not exceeding (i) 5% during the first ten-year renewal period, (ii) 6% during the second ten-year renewal period, and (iii) 7% during the third ten-year renewal period.* The extent of readjustment of royalty, if any to be made under this section shall be determined prior to the commencement of the renewal period.

1966 leases § 5 (emphases added). As explained more fully below, since at least 1986, the Solicitor’s Office has interpreted section 5 to mean that, even if the Secretary can and does, as a matter of discretion, renew the lease to extend the time to commence production, there is no right



to a further renewal when production<sup>14</sup> has not begun at the end of the first renewal-extension period.

The opening segment of the first sentence of section 5 describes the BLM's right to readjust the royalties and other terms and conditions at the renewal stage. This provision means that, as a general rule, if renewing the lease, the BLM is allowed to readjust not only the lease royalties but also other terms and conditions at the renewal stage, including stipulations to protect the surface.

The second segment of the first sentence following the semi-colon (highlighted in **bold** above) is a proviso that allows for three successive ten-year renewals, but conditions the lessee's right to those renewals on the lessee beginning production before the end of the primary term of the lease. The key conditioning language is at the end of the first sentence, as highlighted below:

provided, however, that the Lessee shall have the right to three successive ten-year renewals of this lease with any readjustment in royalties payable hereunder limited to that hereinafter provided and with no readjustment of any of the other terms and conditions of the lease **unless at the end of the primary term of this lease the Lessee shall not have begun production, either hereunder or under the companion lease granted to the Lessee this day.**

This highlighted clause, which begins with "unless," qualifies the very right to renew and not merely, as the company has asserted, the phrase describing the level of discretion the BLM has to readjust the other terms and conditions of the leases upon renewal. In other words, the proper meaning of the proviso is clear when the last clause is placed next to the provision it actually qualifies: "[T]he Lessee shall have the right to three successive ten-year renewals of this lease . . . unless at the end of the primary term of this lease the Lessee shall not have begun production, either hereunder or under the companion lease granted to the Lessee this day."

This conclusion is evident by the construction of the proviso. The two readjustment limitations are tied together and modify the "right to three successive ten-year renewals" language. The use of the conjunctive "and" between the two readjustment phrases ("with any readjustment in royalties payable hereunder limited to that hereinafter provided **and** with no readjustment of any of the other terms and conditions of the lease") ties them together as a single modifier to the right-to-renew language. Accordingly, the production requirement set out as the last clause of the proviso cannot merely qualify the readjustment phrases, as contended by TMM, but must apply to the overall right of renewal. In this way the proviso makes any non-discretionary renewal contingent on the lessee meeting the production requirement first, and then the conditions of that renewal regarding royalties and lease terms are specified in the readjustment phrases.

This conclusion is further reinforced by the second sentence of section 5 (the portion of section 5 underlined above). That sentence has three clauses. The first clause provides that the BLM has

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<sup>14</sup> None of the Department's solid minerals leasing regulations—including those in force at the time of the 1986 Solicitor's Opinion, those promulgated immediately thereafter, and those currently in force—expressly define the term "production." However, the rights granted in section 1 of the 1966 leases are described as mining, removing, and disposing of the copper and/or nickel minerals and associated minerals in, upon, or under the leased lands. These activities may be viewed to reasonably describe production.

the discretion to grant the lessee an extension beyond the primary term to begin production, if doing so would be in the interest of conservation or the lessee cannot operate the lease at a profit or for other reasons. The second clause states that, if an extension is granted, the lessee is entitled to a renewal in which the only revision allowed is to the royalties provision. These two clauses allow the lessee to use the first renewal as an extension time period to begin production. The third and final clause of the sentence, however, limits this right to a renewal if there is no production by the end of the extension: “but the Lessee shall not be entitled to subsequent such renewals unless it shall have begun production within the extended time.” This final clause reinforces the preceding sentence’s condition precedent that there must be production before the lessee has a “right” to subsequent renewals. The second sentence therefore again makes production a precondition for any right to renew and disallows the lessee from obtaining a “right” to a renewal if no production has occurred during the primary term or an extension that the Secretary may grant for commencement of production.

The third sentence of section 5 (the portion of section 5 in *italics* above) describes the degree to which the BLM may readjust the royalty if the lessee is entitled to a “limited adjustment” lease renewal under the first sentence, i.e., the Lessee is “entitled to renewal without readjustment except of royalties payable hereunder . . . .” But without production, there would be no such entitlement.

Taken as a whole, the language of section 5 does not give the lessee a non-discretionary right to three successive renewals. Rather, production is the condition precedent for the lessee to obtain any lease renewals of right. There is no right of renewal if there has been no production before the end of the primary term or at the end of any renewal that the BLM grants to extend the time for the lessee to commence production. The fact that the lease terms expressly state that subsequent renewals of right are not available if no production occurs during any extension the BLM may grant for commencement of production reiterates the linkage between renewals of right and production. It would be incongruent to link only the benefit of unchanged lease terms to production, while leaving the lease renewal and royalty readjustment terms unaffected by a lack of production. Such arbitrary line drawing would create little incentive for the lessee to develop the minerals, which is the entire purpose for these mineral leases. In contrast, when production is a condition precedent for lease renewals, the lease renewal provision effectively serves as a minimal due diligence provision for the lessee.<sup>15</sup>

TMM asserts a different interpretation though. TMM reads the proviso of the first sentence of section 5 to grant the lessee a non-discretionary right of renewal, with such right of renewal limited only to royalty readjustment and with no readjustment of any other lease terms. TMM also reads the production requirement in the provision—“unless at the end of the primary term of

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<sup>15</sup> We note that section 14 of the 1966 leases does not change this conclusion. Section 14 sets forth the royalty rates that would apply in the second ten years of the primary lease term and in the first, second, and third ten-year renewal periods, if the lessee were to sink a shaft for underground exploration or development or otherwise begin commercial development within five years of obtaining the rights and authorizations for construction, operation and maintenance of the leased premises. According to TMM, in 1967, its predecessor in interest, INCO, sunk an 1100-foot shaft for exploration and development on lease MNES 01352. TMM asserts that section 14 contractually entitles it to these royalty rates during each of three renewal periods. However, nothing in section 14 provides for a non-discretionary right of renewal. Rather, section 14 merely describes the royalty rate that would apply during the first three ten-year renewals. It does not grant those renewals and does not state that sinking an exploration or development shaft entitles the lessee to those renewals.

this lease the Lessee shall not have begun production”—to modify only the readjustment limitation language, not the right to renewal language. Under TMM’s interpretation of the provision, if the lessee begins production within the primary term, the BLM may make only limited royalty adjustments, as provided in the leases, and no adjustments to any other lease terms. If, on the other hand, the lessee fails to begin production within the primary term, according to TMM, the lack of production negates only the readjustment limitations in the provision, and the BLM would be able to impose greater royalty readjustments and readjust other terms and conditions of the leases upon renewal. In other words, under the company’s reading, a right to three successive ten-year renewals begins immediately following the primary terms regardless of whether production has occurred, and section 5 only affects the parameters for the BLM’s readjustment of the lease terms in those non-discretionary three renewals.

In addition to being unsupported by the terms of the proviso as described above, TMM’s interpretation would allow it to hold the leases without any need to produce minerals in paying quantities for at least fifty years, and longer in this instance given the time to process the lease renewals. This interpretation not only conflicts with the plain wording of the 1966 lease terms but also is contrary to the very intent of the applicable statutory framework under which the Secretary may authorize mineral development with an expectation of revenues, not speculative land holdings. *See* Reorganization Plan No. 3 of 1946 § 402, 60 Stat. 1097, 1099-1100; 16 U.S.C. § 520. Interpreting the leases to allow for three non-discretionary renewals covering a thirty-year time span without the occurrence of the very underlying activity for which the leases are issued in the first place would defeat the purpose of entering into the lease. Such an interpretation would allow for the speculative holding of mineral rights, which is contrary to Congress’s intent to encourage productive mineral development while also providing a fair return to the American taxpayer.

Our interpretation that section 5 requires the lessee to begin production to obtain the benefit of any non-discretionary right of renewal is not only mandated by the lease terms, but is consistent with the regulation regarding renewal applications cited in the lease. Section 1(a) of the 1966 leases requires the renewals to be in accordance with 43 C.F.R. § 3221.4(f) (1966), which in turn requires that renewal applications “must be filed in a manner similar to that prescribed for extension of a prospecting permit in § 3221.3(a).” Under 43 C.F.R. § 3221.3(a), a prospector must show that he or she has “diligently performed prospecting activities” to support an application for an extension of a prospecting permit.<sup>16</sup> Allowing for the difference between a prospecting permit application and a lease renewal application, § 3221.3(a) requires that the lease renewal application include a showing of diligence in performing the lease activities (rather than the prospecting activities), which are reasonably viewed, consistent with the rights granted in section 1 of the lease terms, as mining, removing, and disposing of the copper and/or nickel minerals and associated minerals—i.e., production. Consequently, by stating that any renewals must be “in accordance with 43 C.F.R. § 3221.4(f),” the lease terms again identified production as the baseline for obtaining a renewal of right. Based on the lease terms as a whole, and because there has been no production during the primary term or the succeeding extensions through lease renewals that the BLM has granted, TMM has not satisfied the condition precedent

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<sup>16</sup> Under 43 C.F.R. § 3221.3(a) (1966), in addition to making a show of diligence, the applicant must file an application in triplicate within ninety days before the expiration date of the lease term and must pay a filing fee.

for obtaining a renewal of right and, therefore, the BLM has discretion to make a decision regarding whether to renew the leases even if the 1966 renewal terms were in effect.

In addition, the Solicitor's Office has already concluded that the BLM is not required to renew the 1966 leases as a matter of right if there has been no production. In 1986, the Associate Solicitor for the Division of Energy and Resources sent a memorandum to the Deputy State Director for the BLM Eastern States Office responding to three questions from the Deputy State Director.<sup>17</sup> The first question was whether it was possible to grant lease renewals (for the same leases that are at issue here) when the leases had never been in production. In response, the Associate Solicitor examined the terms of the lease to determine whether or not lack of production precludes extending the lease term. The Associate Solicitor then relied on the second sentence of section 5 (the portion of section 5 underlined above) to conclude that, while the leases may be extended for a period not exceeding ten years even though production has not occurred, if production does not occur during the period of extension, "no further extensions will be allowed in accordance with the terms of the lease." Consistent with this legal advice and the provisions of section 5 of the 1966 leases, the BLM granted a ten-year extension by renewing these two leases in 1989.

As noted above, the BLM also renewed the leases for a second ten-year period in 2004. Because no production had occurred by that time, the BLM's decision to renew the leases in 2004 was discretionary. The BLM's decision to renew the leases in 2004 does not impede the BLM from again exercising discretion regarding the lessee's application for a third renewal of the leases, particularly where this office has previously concluded that the agency need not allow additional pre-production renewals.<sup>18</sup>

It should be noted that the lessee's payment of minimum royalties in lieu of production does not alter the foregoing analysis.<sup>19</sup> The payment of minimum royalties is certainly one incentive to produce that was imposed by the 1966 leases, but that incentive worked in tandem with the one created by the leases' production precondition for mandatory renewals. The second incentive

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<sup>17</sup> See Memorandum from Associate Solicitor, Energy and Resources, signed by Kenneth G. Lee, Assistant Solicitor, Branch of Eastern Resources, to Deputy State Director, Mineral Resources, Eastern States Office, Bureau of Land Management, "Application for Minimum Royalty Waiver Submitted by INCO Alloys International, Incorporated for Leases ES 01352 and ES 01353" (Apr. 2, 1986) (Attached).

<sup>18</sup> TMM has made no showing in its pending renewal application under 43 C.F.R. § 3221.4(f) (1966) that would entitle it to a third and final renewal under section 5 of the 1966 leases. TMM has never begun production. TMM's predecessor, INCO, sunk a development shaft and conducted bulk sampling, but neither of those actions qualifies as beginning production. Without any showing of diligence in mining, removing, or disposing of the copper, nickel, and associated minerals, and without beginning production, TMM is not entitled to any further non-discretionary ten-year renewals. TMM has also asserted that the Department of the Interior is prohibited by 30 U.S.C. § 184(h)(2), as well as the Department's regulations at 43 C.F.R. § 3514.40 (2015), from "cancelling" TMM's interest in the leases at issue as TMM is a bona fide purchaser. But the cancellation regulations have no applicability where, as here, the decision is whether to renew a lease. Were BLM to exercise its discretion to deny the lease renewal application, it would not be cancelling the leases, as contemplated by 30 U.S.C. § 184(h)(2) and 43 C.F.R. § 3514.40, but rather would be allowing leases that have been in existence for fifty years without production to terminate by their own terms.

<sup>19</sup> The original leases do not mention minimum royalties as a way to fulfill the production requirement. And section 2(b) of TMM's 2004 leases merely provides that "[a]t the request of the lessee, made prior to initiation of the lease year, the authorized officer may allow in writing the payment of a \$3.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year."

expired when no production occurred by the end of the extension period granted by the 1989 renewal. While the 2004 renewal leases retain the minimum royalties payment incentive, that fact has no impact on the renewal provision of the 2004 leases. Of course, for the leases to continue in effect during the renewal period, the lessee was required to continue to meet its obligation to pay royalties in lieu of production. However, that payment was and is not equivalent to production and does not somehow entitle the lessee to obtain a lease renewal of right; instead, it merely keeps the leases from terminating during the extension time period the BLM has granted through a lease renewal.

The fact that the payment of royalties in lieu of production cannot be the basis for establishing the right to renew, and cannot be a *de facto* means of extending a lease in perpetuity, is also clear from IBLA case law. In *General Chemical (Soda Ash) Partners*, the IBLA held that minimum royalties in lieu of production have “nothing to do with whether the Secretary, in looking at production from the mine of which the lease is a part at the end of the current lease term, will renew the lease for an additional term.” 176 IBLA at 9. The Board further held, “Moreover, ‘[t]he Secretary has the authority to encourage production and development of federally leased sodium resources *both through minimum development and production requirements and minimum royalties* imposed on each lease.” *Id.* (emphasis in original) (quoting 1982 Solicitor’s Opinion, 89 Interior Dec. at 185). The leases here use precisely both mechanisms to encourage production, albeit not successfully in this instance.

#### Conclusion

For the foregoing reasons, the lessee has not established a non-discretionary right to a third ten-year renewal. Under the governing 2004 lease terms, the BLM has the same discretion regarding whether to renew the lease for a third time as it had in determining whether to grant the initial lease. While the 2004 lease terms give the lessee a preference over other potential lessees to lease the lands in question, they do not entitle the lessee to non-discretionary renewal of the leases.



Hilary C. Tompkins

Attachment



## United States Department of the Interior

OFFICE OF THE SOLICITOR  
350 South Pickett Street  
ALEXANDRIA, VIRGINIA 22304

BLM.ER.0335

APR - 2 1986

### Memorandum

To: Deputy State Director, Mineral Resources (970)  
Eastern States Office, Bureau of Land Management

From: Associate Solicitor, Energy and Resources

Subject: Application for Minimum Royalty Waiver Submitted by  
INCO Alloys International, Incorporated for Leases  
ES 01352 and ES 01353

You have requested a legal opinion addressing three questions raised in a memorandum from the Milwaukee District Office. The answers along with these questions are set forth below.

Question No. 1: "Is it possible to grant lease renewals for these leases when the leases have never been in production? The lease documents and the regulations are not clear on this point. This question will surely be asked by INCO since the initial 20 year lease term expires on May 31, 1986."

A lease for hardrock minerals may be issued for a period not exceeding 20 years. The primary term on the subject leases was for a 20 year period. The lease shall be subject to a preferential right to renew for a term not to exceed 10 years at the end of the initial term and each succeeding term thereafter, upon such terms and conditions as may be incorporated in each lease or prescribed in the general regulations issued by the Secretary. 43 C.F.R. 3520.2-1(a)(2). The Secretary of the Interior has promulgated no regulations that require production as a prerequisite to the extension of such leases. Accordingly, we must look to the terms of the lease to determine whether or not lack of production precludes extending the lease term. Section 5 of the lease states that, "The Secretary of the Interior may grant extensions of time for commencement of production in the interest of conservation or upon a satisfactory showing by the lessee that the lease cannot be successfully operated at a profit or for other reasons . . . but the lessee shall not be entitled to subsequent such renewals unless it shall have begun production within the extended time." Therefore, according to the terms of the lease, such lease may be extended even though production has not occurred, for a period not exceeding 10 years. If production does not occur during the period of extension, no further extensions will be allowed in accordance with the terms of the lease.

Question No. 2: "INCO has been given waivers of minimum royalty payments for 5 years due to condition beyond its control (i.e.,

environmental analysis), and is now asking for a waiver based on additional conditions beyond its control (i.e., low copper and nickel prices). Has BLM set a binding precedence [sic] by granting the original waivers?"

INCO's failure to pay minimum royalties as set forth in section 2(c) of the lease, constitutes a breach of the covenants and conditions contained in the lease agreement. In section 6(b) of the lease, the United States reserved the right to waive any breach of the covenants and conditions contained therein but any such waiver shall extend only to the particular breach so waived and shall not limit the rights of the lessor with respect to any future breach. Therefore, waiver of a prior breach of the minimum royalty payments, does not obligate the Bureau to grant any subsequent waivers.

Question No. 3: Section 2(c) of the lease states, "Lessee [sic] may . . . waive . . . minimum royalty payments for reasonable periods of time . . . ." Waivers were given for the first 5 years they were due, which is one-fourth of the initial lease term. Would granting of further waivers be conceived to extend beyond a "reasonable period?"

Section 2(c) states that, "Lessor may in its discretion, waive, reduce, or suspend the minimum royalty payment for reasonable periods of time in the interest of conservation or when such action does not adversely affect the interest of the United States. . . ." Whether or not the waiver period is "reasonable" must be determined by an examination of the purpose for which such discretion was exercised. Obviously if the reason for such waiver was due to a condition that only existed for 3 years, then a waiver of minimum royalty for a 10 year period would probably be deemed unreasonable. We suggest that the information submitted by the lessee be examined and considered in its entirety in order to determine what is reasonable given the facts set forth in that information. In addition, the reasonable period of time is to be viewed in the context of the "interest of conservation" and the "interest of the United States."

If you should have any further questions relating to this matter, please contact Barry Crowell at 274-0204.



Kenneth G. Lee  
Assistant Solicitor  
Branch of Eastern Resources

Attachment

(b) (5)



**Created by:**[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)

Total Messages in label:97 (20 conversations)

Created: 08-07-2018 at 11:58 AM



# Conversation Contents

## Background materials for Twin Metals briefing

### Attachments:

/20. Background materials for Twin Metals briefing/1.1 2017.08.09 Draft Lease Renewal Scenarios w. comment.docx  
/20. Background materials for Twin Metals briefing/1.2 2017.10.03 Twin Metals litigation briefing paper.docx  
/20. Background materials for Twin Metals briefing/1.3 2017.07.24 SuperiorNF\_Mineral Withdrawl\_Briefing Paper July 24 2017 from ESO to WO (1).docx  
/20. Background materials for Twin Metals briefing/2.1 2017.08.09 Draft Lease Renewal Scenarios w. comment.docx  
/20. Background materials for Twin Metals briefing/2.2 2017.10.03 Twin Metals litigation briefing paper.docx  
/20. Background materials for Twin Metals briefing/2.3 2017.07.24 SuperiorNF\_Mineral Withdrawl\_Briefing Paper July 24 2017 from ESO to WO (1).docx

## "Hawbecker, Karen" <karen.hawbecker@sol.doi.gov>

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**From:** "Hawbecker, Karen" <karen.hawbecker@sol.doi.gov>  
**Sent:** Tue Oct 03 2017 14:35:03 GMT-0600 (MDT)  
**To:** David Bernhardt <(b) (6)@ios.doi.gov>  
Daniel Jorjani <daniel.jorjani@sol.doi.gov>, Jack Haugrud <jack.haugrud@sol.doi.gov>, "Moody, Aaron" <Aaron.Moody@sol.doi.gov>, Briana Collier <briana.collier@sol.doi.gov>, Gareth Rees <gareth\_rees@ios.doi.gov>  
**CC:**  
**Subject:** Background materials for Twin Metals briefing  
2017.08.09 Draft Lease Renewal Scenarios w. comment.docx  
2017.10.03 Twin Metals litigation briefing paper.docx  
**Attachments:** 2017.07.24 SuperiorNF\_Mineral Withdrawl\_Briefing Paper July 24 2017 from ESO to WO (1).docx

David, I've attached for your reference three background documents for the Twin Metals briefing tomorrow morning. The documents include a briefing paper about the Twin Metals lease history and litigation, a lease renewal scenarios paper, and a July 24 BLM briefing paper about the USFS withdrawal application. We'll see you tomorrow. --Karen

## "Hawbecker, Karen" <karen.hawbecker@sol.doi.gov>

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**From:** "Hawbecker, Karen" <karen.hawbecker@sol.doi.gov>  
**Sent:** Tue Oct 03 2017 14:38:42 GMT-0600 (MDT)  
Richard McNeer <Richard.McNeer@sol.doi.gov>, Roy Fuller <roy.fuller@sol.doi.gov>, "Sklar, Ryan" <ryan.sklar@sol.doi.gov>, Joshua Hanson <joshua.hanson@sol.doi.gov>

**CC:** Briana Collier <briana.collier@sol.doi.gov>, "Moody, Aaron" <Aaron.Moody@sol.doi.gov>

**Subject:** Fwd: Background materials for Twin Metals briefing  
2017.08.09 Draft Lease Renewal Scenarios w. comment.docx  
2017.10.03 Twin Metals litigation briefing paper.docx 2017.07.24  
**Attachments:** SuperiorNF\_Mineral Withdrawal\_Briefing Paper July 24 2017 from ESO to WO (1).docx

FYI--these are the documents we shared with the Deputy Secretary. --Karen

----- Forwarded message -----

From: **Hawbecker, Karen** <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>  
Date: Tue, Oct 3, 2017 at 4:35 PM  
Subject: Background materials for Twin Metals briefing  
To: David Bernhardt <(b) (6) @ios.doi.gov>  
Cc: Daniel Jorjani <[daniel.jorjani@sol.doi.gov](mailto:daniel.jorjani@sol.doi.gov)>, Jack Haugrud <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)>, "Moody, Aaron" <[Aaron.Moody@sol.doi.gov](mailto:Aaron.Moody@sol.doi.gov)>, Briana Collier <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>, Gareth Rees <[gareth\\_rees@ios.doi.gov](mailto:gareth_rees@ios.doi.gov)>

David, I've attached for your reference three background documents for the Twin Metals briefing tomorrow morning. The documents include a briefing paper about the Twin Metals lease history and litigation, a lease renewal scenarios paper, and a July 24 BLM briefing paper about the USFS withdrawal application. We'll see you tomorrow. --Karen

Twin Metals Potential Scenarios for Lease Renewal

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**INFORMATION MEMORANDUM FOR DEPUTY SECRETARY**

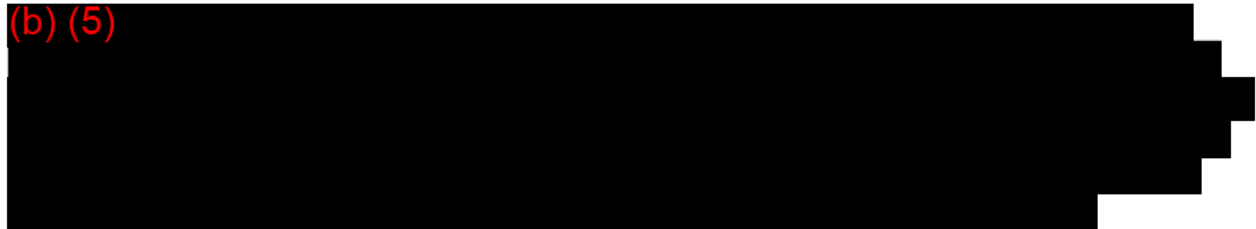
**DATE:** October 3, 2017

**THROUGH:** K. Jack Haugrud  
Deputy Solicitor, Energy and Mineral Resources

**FROM:** Karen Hawbecker  
Associate Solicitor, Mineral Resources

**SUBJECT:** *Franconia Minerals v. United States*, No. 16-3042 (D. Minn.) – Involving the  
Denied Renewal of Federal Hardrock Mineral Leases MNES 1352 and 1353

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**INFORMATION/BRIEFING MEMORANDUM**  
**FOR THE ASSISTANT SECRETARY – LAND AND MINERALS MANAGEMENT**

**DATE:** July 24, 2017

**FROM:** Michael D. Nedd, Acting Director – Bureau of Land Management

**SUBJECT:** Update on Proposed Withdrawal – Twin Metals – Superior National Forest

The purpose of this memorandum is to provide background information about an application dated and submitted on December 14, 2016, by the U.S. Forest Service, proposing a withdrawal from mineral leasing laws on approximately 234,328 acres of Federal mineral estate within the Superior National Forest, northern Minnesota, near the Boundary Waters Canoe Area Wilderness (BWCAW). Authority to approve or deny applications for withdrawals is delegated to the Secretary of the Interior (unless superseded by Congress), including lands managed by the Forest Service (Sec. 204 FLPMA).

The proposed mineral withdrawal would be subject to valid existing rights. The application specifically requests withdrawal from the following mineral leasing laws:

- Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.);
- Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359);
- Section 402 of the President's Reorganization Plan No. 3 of 1946; and
- 60 Stat. 1097, 1099-1100, and the statutes it lists, and 16 U.S.C. 508b.

**KEY FACTS**

- Number of acres proposed for withdrawal: 234,328
- Initial segregation: Two years.
- Subsequent withdrawal: 20 years, if approved.
- Number of different mineral interests/permits/applications within the proposed withdrawal area: 46, not including the two leases that the BLM declined to renew, and are under litigation.
- Number of other projects that are impacted: Unknown. There are 46 pending actions or permit applications in the area of the withdrawal. It is not known how many could result in mining projects that would create new mining industry or transportation jobs.
- Currently there are four Preference Right Lease Applications (PRLA) pending in this area, for which two Preliminary Valuable Deposit Determinations (Determination) have been completed. The Determinations only cover a small portion of the Maturi deposit in the Duluth Complex. The withdrawal area is much larger than that of the deposit.
- The Determination results and related financial estimates are propriety in nature and confidential.
- The types of mineral deposits known to exist in this area are copper, nickel, palladium, platinum, gold, and silver. The deposits contain “strategic minerals” because of technological applications, but do not contain rare earth minerals.
- Stakeholders’ positions in the state of Minnesota are deeply divided. Virtually all constituents expressed an interest in protecting the BWCAW. One group believes that the potential for jobs could be significant and that the risk of acid drainage into the

BWCAW can be minimized. The other group, including Minnesota Governor Mark Dayton, believes that the potential for harm to the BWCAW is too high and not worth the risk.

## **BACKGROUND**

The Superior National Forest lands subject to the segregation and withdrawal application include part of the Duluth Complex, a geologic complex that contains ore rich in copper, nickel, palladium, platinum, gold, and silver. It also overlaps the Rainy River Watershed, which includes the nearby BWCAW, the only large lake-land wilderness in the National Wilderness Preservation System.

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### Potential for Recreation-based Employment

The Forest Service withdrawal application identified the purpose of the proposed withdrawal as follows: "... to protect National Forest System lands (and waters) located in the Rainy River Watershed, the BWCAW, and the MPA [Mining Protection Area] from the adverse environmental impacts, including potential irreparable harm, arising from exploration and development of Federally-owned minerals conducted pursuant to the mineral leasing laws."

The unique water-based recreation opportunities that the BWCAW provides attract many visitors and provide an economic driver to local communities supporting hospitality and other services dependent on fishing, boating, sightseeing, and wilderness experiences, according to information supplied by the U.S. Forest Service. In 2015, 150,000 people visited the BWCAW. Tourism has generated an average of \$44.5 million annually in local economic activity, according to the Forest Service.

### Potential for Getting America Back to Work in Mining Industry Jobs

Industry interest in developing the minerals in the proposed withdrawal area is high. TMM holds the majority interest. Part of the withdrawal area is in St. Louis County, Minnesota, where mining employment has declined from more than 12,000 jobs in 1980 to approximately 3,000 jobs in 2009, primarily due to the reduction in workforce at taconite (a low-grade iron ore) mines.

According to TMM, mining in this region "will create thousands of jobs during construction and hundreds of direct full-time jobs when the mine is in operation. According to a University of Minnesota Duluth study, the Project would generate approximately two more additional indirect

jobs per direct job at the mine site in the region's economy." See table below for an overview of previous and pending actions indicating the potential for mineral development.

CURRENT/PENDING ACTIONS	COUNT	COMMENT
1966 Lease Renewal	2	Renewal request filed timely; USFS denied consent; BLM declined to renew on 12/15/2016; litigation pending
Preference Right Lease Application	4	Three from TMM and 1 from Encampment
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Existing Permits with Pending Extension Requests	18	Extension Requests filed timely
TOTAL PENDING APPLICATIONS	48	

Employment levels are highly dependent on the fluctuating market price of the minerals being extracted. The median income of the local communities is significantly lower than that of the state as a whole.

(b) (5) [REDACTED]

[REDACTED]

[REDACTED]



(b) (5) [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b) (5)

Twin Metals Potential Scenarios for Lease Renewal

(b) (5) [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b) (5)

[REDACTED]

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[REDACTED]

[REDACTED]

(b) (5)

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[REDACTED]

[REDACTED]

[REDACTED]

(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**INFORMATION MEMORANDUM FOR DEPUTY SECRETARY**

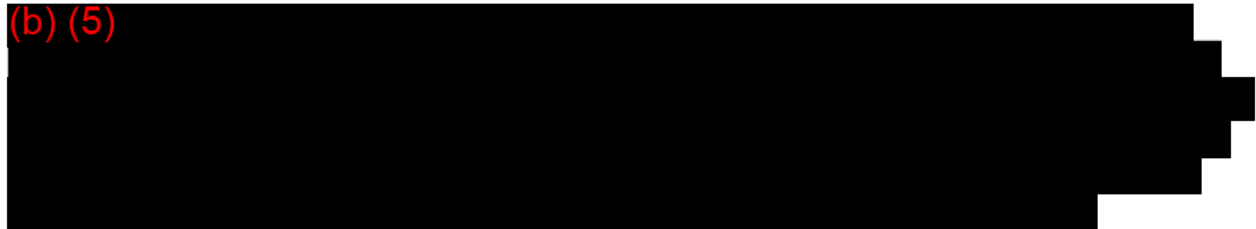
**DATE:** October 3, 2017

**THROUGH:** K. Jack Haugrud  
Deputy Solicitor, Energy and Mineral Resources

**FROM:** Karen Hawbecker  
Associate Solicitor, Mineral Resources

**SUBJECT:** *Franconia Minerals v. United States*, No. 16-3042 (D. Minn.) – Involving the  
Denied Renewal of Federal Hardrock Mineral Leases MNES 1352 and 1353

(b) (5)



---





(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]



(b) (5)

[REDACTED]

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[REDACTED]

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[REDACTED]

(b) (5)

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b) (5)



**INFORMATION/BRIEFING MEMORANDUM**  
**FOR THE ASSISTANT SECRETARY – LAND AND MINERALS MANAGEMENT**

**DATE:** July 24, 2017

**FROM:** Michael D. Nedd, Acting Director – Bureau of Land Management

**SUBJECT:** Update on Proposed Withdrawal – Twin Metals – Superior National Forest

The purpose of this memorandum is to provide background information about an application dated and submitted on December 14, 2016, by the U.S. Forest Service, proposing a withdrawal from mineral leasing laws on approximately 234,328 acres of Federal mineral estate within the Superior National Forest, northern Minnesota, near the Boundary Waters Canoe Area Wilderness (BWCAW). Authority to approve or deny applications for withdrawals is delegated to the Secretary of the Interior (unless superseded by Congress), including lands managed by the Forest Service (Sec. 204 FLPMA).

The proposed mineral withdrawal would be subject to valid existing rights. The application specifically requests withdrawal from the following mineral leasing laws:

- Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.);
- Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359);
- Section 402 of the President's Reorganization Plan No. 3 of 1946; and
- 60 Stat. 1097, 1099-1100, and the statutes it lists, and 16 U.S.C. 508b.

**KEY FACTS**

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- Initial segregation: Two years.
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## **BACKGROUND**

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(b) (5) [REDACTED]

[REDACTED]

[REDACTED]



(b) (5) [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b) (5)

# **Label: "Twin Metals/TMM FOIA request/SOL-2018-00089/Harris"**

**Created by:**[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)

Total Messages in label:43 (5 conversations)

Created: 08-07-2018 at 13:11 PM

# Conversation Contents

**Fwd: are you here today or working?**

**Attachments:**

/1. Fwd: are you here today or working?/1.1 M-37049 withdrawal of M-37036 re Twin Metals leasing.docx

**"Harris, Steve" <steve.harris@sol.doi.gov>**

---

**From:** "Harris, Steve" <steve.harris@sol.doi.gov>  
**Sent:** Tue Aug 07 2018 11:09:36 GMT-0600 (MDT)  
**To:** Briana Collier <briana.collier@sol.doi.gov>  
**Subject:** Fwd: are you here today or working?  
**Attachments:** M-37049 withdrawal of M-37036 re Twin Metals leasing.docx

1 of 13 (Sorry, I can't find any multiple gmail forwarding feature.)

**Forwarded conversation**

Subject: **are you here today or working?**

-----  
From: **Caminiti, Mariagrazia** <[marigrace.caminiti@sol.doi.gov](mailto:marigrace.caminiti@sol.doi.gov)>  
Date: Mon, Dec 11, 2017 at 3:13 PM  
To: Steve Harris <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>

--  
**Marigrace Caminiti**

Executive Assistant to the Solicitor  
US Department of the Interior  
1849 C Street, NW, Rm. 6352  
Washington, DC 20240  
202-208-4423 - main number  
202-208-3111 - direct  
202-208-5584 - fax  
202-528-0486 or 202-359-2949 -cell/wcell

AA  
  
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-----

From: **Harris, Steve** <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>  
Date: Mon, Dec 11, 2017 at 3:15 PM  
To: "Caminiti, Mariagrazia" <[marigrace.caminiti@sol.doi.gov](mailto:marigrace.caminiti@sol.doi.gov)>

I'm working from home. I'm getting ready to sign off in a few minutes. I'm coming in tomorrow.  
--

-----  
Steve Harris  
  
Paralegal Specialist  
  
Division of Mineral Resources  
  
Office of the Solicitor  
  
U.S. Department of the Interior  
  
Phone: (202) 208-5368  
  
Fax: (202) 208-2225

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From: **Caminiti, Mariagrazia** <[marigrace.caminiti@sol.doi.gov](mailto:marigrace.caminiti@sol.doi.gov)>  
Date: Mon, Dec 11, 2017 at 3:19 PM  
To: "Harris, Steve" <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>

can you check a cite for me - there's something wrong with it -twin metals. (b) (5)

-----  
From: **Harris, Steve** <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>  
Date: Mon, Dec 11, 2017 at 3:21 PM  
To: "Caminiti, Mariagrazia" <[marigrace.caminiti@sol.doi.gov](mailto:marigrace.caminiti@sol.doi.gov)>

Let me check...

-----  
From: **Harris, Steve** <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>  
Date: Mon, Dec 11, 2017 at 3:39 PM

To: "Caminiti, Mariagrazia" <[marigrace.caminiti@sol.doi.gov](mailto:marigrace.caminiti@sol.doi.gov)>

OK. Here's the quote:

(b) (5)

It looks to me like (b) (5).

--

-----  
Steve Harris

Paralegal Specialist

Division of Mineral Resources

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**"Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>**

---

**From:** "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
**Sent:** Tue Aug 07 2018 11:19:48 GMT-0600 (MDT)  
**To:** "Harris, Steve" <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>  
**Subject:** Re: are you here today or working?

Thanks Steve. We use the DMU tool now. Here are instructions, just so you have them.

I'm working from home. I'm getting ready to sign off in a few minutes. I'm coming in

tomorrow.

--

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can you check a cite for me - there's something wrong with it -twin metals (b) (5)

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(b) (5)

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**From:** "Harris, Steve" <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>  
**Sent:** Tue Aug 07 2018 11:24:10 GMT-0600 (MDT)  
**To:** "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
**Subject:** Re: are you here today or working?

Ah. Thanks, Briana. I knew it was an issue, but I couldn't find anything on my e-mail regarding it.

On Tue, Aug 7, 2018 at 1:19 PM, Collier, Briana <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)> wrote:  
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(b) (5)

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
[505 Marquette Ave., NW Ste.1800](#)  
[Albuquerque, NM 87102](#)

Phone: (505) 248-5604

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On Tue, Aug 7, 2018 at 11:09 AM, Harris, Steve <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)> wrote:  
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### Forwarded conversation

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US Department of the Interior  
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Washington, DC 20240  
202-208-4423 - main number  
202-208-3111 - direct  
202-208-5584 - fax  
202-528-0486 or 202-359-2949 -cell/wcell

\*\*\*\*\*

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M-37049

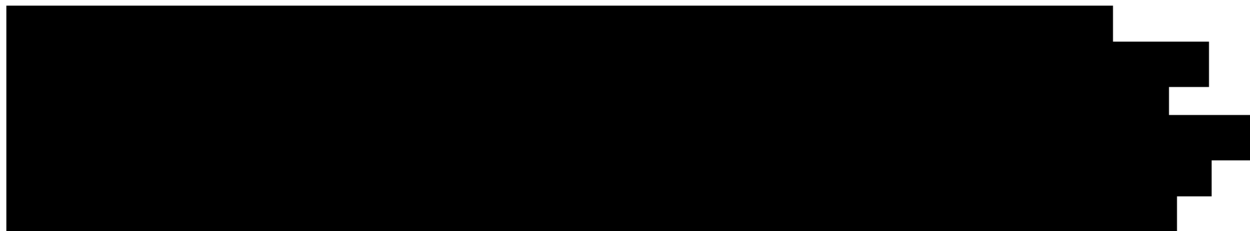
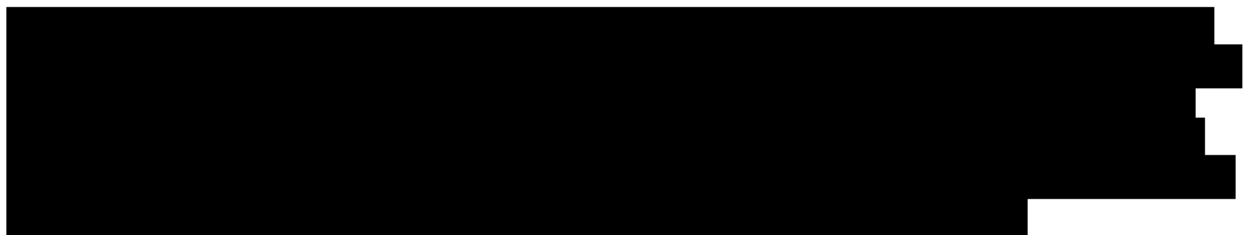
Memorandum

To: Director, Bureau of Land Management

From: Solicitor

Subject: Reversal of M-37036, "Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-01353)"

(b) (5)



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(b) (5) [REDACTED]

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# **Label: "Twin Metals/TMM FOIA request/SOL-2018-00089/Harris"**

**Created by:**[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)

Total Messages in label:43 (5 conversations)

Created: 08-07-2018 at 13:11 PM

# Conversation Contents

## Twin Metals opinion update

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- /2. Twin Metals opinion update/4.1 2017.11.17 draft M-Op reversal rework.docx
- /2. Twin Metals opinion update/4.2 2017.11.17 draft M-Op reversal rework\_clean.docx
- /2. Twin Metals opinion update/15.1 M37036 Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-0135) (1).pdf
- /2. Twin Metals opinion update/17.1 106. 1965.07.09 MFR by ferrous metals branch chief re mtg with Rep Blatnik, INCO & DOI reps on leases (1959-1966.004902).pdf
- /2. Twin Metals opinion update/17.2 113. 1965.10.05 memo fm BLM dir to asst sec minieral resources re INCO's proposed preference right lease (1959-1966.004875).pdf
- /2. Twin Metals opinion update/17.3 115. 1965.10.29 memo fm conservation div chief to USGS assoc dir re proposed INCO preference right lease terms (1959-1966.004855).pdf
- /2. Twin Metals opinion update/17.4 108. 1965.08.18 MFR fm conservation div asst chief re INCO meeting at which INCO agreed to drop 50 year lease term (1959-1966.004899).pdf
- /2. Twin Metals opinion update/17.5 120. 1966.01.10 memo fm USGS dir to secretary re congressional phone call to discuss INCO royalty lease terms (1959-1966.004818).pdf
- /2. Twin Metals opinion update/17.6 MNES-01352 1966 Lease.pdf
- /2. Twin Metals opinion update/17.7 121. 1966.01.20 memo fm asst sec'y mineral resources to under sec re INCO royalty & performance negotiations (1959-1966.004813).pdf
- /2. Twin Metals opinion update/17.8 1985.08.28 memo assoc distrct mgr to state director re recommendation on INCO min royalty waiver application (1980-2000.000549).pdf
- /2. Twin Metals opinion update/17.9 1987.02.09 memo Superior Nat'l Forest to regional forester re INCO lease renewals (1980-2000.000522).pdf
- /2. Twin Metals opinion update/17.10 1986.07.09 ltr fm Asst Dist Mgr to State Director re recommendations for ES1352 & ES1353 lease renewals (ESO.MNES1353.000763).pdf
- /2. Twin Metals opinion update/17.11 1986.07.09 memo asst district energy & minerals mgr to state director re INCO lease renewal recommendations (1980-2000.000537).pdf
- /2. Twin Metals opinion update/17.12 1988.09.12 ROD preference right lease renewals (1980-2000.000503).pdf
- /2. Twin Metals opinion update/17.13 1988.10.14 memo asst district mgr solid minerals to state director re lease renewal recommendations (1980-2000.000499).pdf
- /2. Twin Metals opinion update/17.14 1988.10.27 ROD vacating decision that leases ready for renewal because terms changed (1980-2000.000498).pdf
- /2. Twin Metals opinion update/17.15 1989.04.25 ROD preference right leases renewal under original lease terms (1980-2000.000501).pdf
- /2. Twin Metals opinion update/17.16 1989 TMM Lease Renewals.pdf
- /2. Twin Metals opinion update/17.17 1989 Renewals 2.pdf
- /2. Twin Metals opinion update/17.18 1999.04.12 memo solid minerals asst field mgr to state director re renewal of preference right leases MNES 1352 & 1353 (1980-2000.000463).pdf
- /2. Twin Metals opinion update/17.19 2003.07.18 ltr Forest Service Eastern Region to BLM ESO re renewal of preference right leases MNES 1352 & 1353 (1980-2000.000462).pdf
- /2. Twin Metals opinion update/17.20 2003.11.12 ROD re add'l requirements to renew ACNC preference right leases (ESO.MNES1352.000166).pdf
- /2. Twin Metals opinion update/26.1 M37036 Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-0135) (1).pdf
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ACNC preference right leases (ESO.MNES1352.000166).pdf

**"Collier, Briana" <briana.collier@sol.doi.gov>**

---

**From:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**Sent:** Fri Nov 17 2017 15:02:35 GMT-0700 (MST)  
**To:** "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>  
**CC:** Karen Hawbecker <karen.hawbecker@sol.doi.gov>, Richard  
McNeer <richard.mcneer@sol.doi.gov>  
**Subject:** Twin Metals opinion update

Hi Jack,

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Thanks very much,  
Briana

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

Phone: (202) 208-4853

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## **"Haugrud, Kevin" <jack.haugrud@sol.doi.gov>**

---

**From:** "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>  
**Sent:** Fri Nov 17 2017 16:04:37 GMT-0700 (MST)  
**To:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**CC:** Karen Hawbecker <karen.hawbecker@sol.doi.gov>, Richard McNeer <richard.mcneer@sol.doi.gov>  
**Subject:** Re: Twin Metals opinion update

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**"Collier, Briana" <briana.collier@sol.doi.gov>**

---

**From:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**Sent:** Fri Nov 17 2017 16:42:46 GMT-0700 (MST)  
**To:** "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>  
**CC:** Karen Hawbecker <karen.hawbecker@sol.doi.gov>, Richard McNeer <richard.mcneer@sol.doi.gov>  
**Subject:** Re: Twin Metals opinion update

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**From:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**Sent:** Fri Nov 17 2017 21:37:27 GMT-0700 (MST)  
**To:** "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>  
**CC:** Karen Hawbecker <karen.hawbecker@sol.doi.gov>, Richard McNeer <richard.mcneer@sol.doi.gov>  
**Subject:** Re: Twin Metals opinion update  
**Attachments:** 2017.11.17 draft M-Op reversal rework.docx 2017.11.17 draft M-Op reversal rework\_clean.docx

Here is the revised opinion in redlined (and probably illegible) and clean versions. (b) (5)

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---

**Kevin Haugrud <jack.haugrud@sol.doi.gov>**

---

**From:** Kevin Haugrud <jack.haugrud@sol.doi.gov>  
**Sent:** Sat Nov 18 2017 07:50:40 GMT-0700 (MST)  
**To:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**CC:** Karen Hawbecker <karen.hawbecker@sol.doi.gov>, Richard McNeer <richard.mcneer@sol.doi.gov>  
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**From:** Collier, Briana  
**Sent:** Friday, November 17, 2017 11:38 PM  
**To:** Haugrud, Kevin  
**Cc:** Karen Hawbecker; Richard McNeer  
**Subject:** Re: Twin Metals opinion update

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**Karen Hawbecker** <karen.hawbecker@sol.doi.gov>

---

**From:** Karen Hawbecker <karen.hawbecker@sol.doi.gov>  
**Sent:** Sun Nov 19 2017 16:35:25 GMT-0700 (MST)  
**To:** Kevin Haugrud <jack.haugrud@sol.doi.gov>  
**CC:** "Collier, Briana" <briana.collier@sol.doi.gov>, Richard McNeer <richard.mcneer@sol.doi.gov>  
**Subject:** Re: Twin Metals opinion update

Thank you, Jack. When you send the new draft for review, I'll also share it with Steve Harris. —  
Karen

Sent from my iPad


On Nov 18, 2017, at 9:50 AM, Kevin Haugrud <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)> wrote:

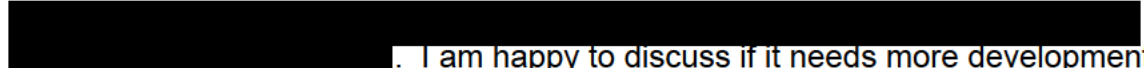
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**Sent:** Mon Nov 20 2017 06:19:56 GMT-0700 (MST)  
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**Sent:** Mon Nov 20 2017 08:13:29 GMT-0700 (MST)  
**To:** "McNeer, Richard" <richard.mcneer@sol.doi.gov>  
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**"Harris, Steve" <steve.harris@sol.doi.gov>**

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**From:** "Harris, Steve" <steve.harris@sol.doi.gov>  
**Sent:** Mon Nov 20 2017 09:38:23 GMT-0700 (MST)  
**To:** "Hawbecker, Karen" <karen.hawbecker@sol.doi.gov>  
**CC:** "Collier, Briana" <briana.collier@sol.doi.gov>, "McNeer, Richard" <richard.mcneer@sol.doi.gov>  
**Subject:** Re: Twin Metals opinion update  
**Attachments:** M37036 Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-0135) (1).pdf

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106. 1965.07.09 MFR by ferrous metals branch chief re mtg with Rep Blatnik, INCO & DOI reps on leases (1959-1966.004902).pdf  
113. 1965.10.05 memo fm BLM dir to asst sec minieral resources re INCO's proposed preference right lease (1959-1966.004875).pdf  
115. 1965.10.29 memo fm conservation div chief to USGS assoc dir re proposed INCO preference right lease

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terms (1959-1966.004855).pdf 108. 1965.08.18 MFR fm conservation div asst chief re INCO meeting at which INCO agreed to drop 50 year lease term (1959-1966.004899).pdf 120. 1966.01.10 memo fm USGS dir to secretary re congressional phone call to discuss INCO royalty lease terms (1959-1966.004818).pdf MNES-01352 1966 Lease.pdf 121. 1966.01.20 memo fm asst sec'y mineral resources to under sec re INCO royalty & performance negotiations (1959-1966.004813).pdf 1985.08.28 memo assoc district mgr to state director re recommendation on INCO min royalty waiver application (1980-2000.000549).pdf 1987.02.09 memo Superior Nat'l Forest to regional forester re INCO lease renewals (1980-2000.000522).pdf 1986.07.09 ltr fm Asst Dist Mgr to State Director re recommendations for ES1352 & ES1353 lease renewals (ESO.MNES1353.000763).pdf 1986.07.09 memo asst district energy & minerals mgr to state director re INCO lease renewal recommendations (1980-2000.000537).pdf 1988.09.12 ROD preference right lease renewals (1980-2000.000503).pdf 1988.10.14 memo asst district mgr solid minerals to state director re lease renewal recommendations (1980-2000.000499).pdf 1988.10.27 ROD vacating decision that leases ready for renewal because terms changed (1980-2000.000498).pdf 1989.04.25 ROD preference right leases renewal under original lease terms (1980-2000.000501).pdf 1989 TMM Lease Renewals.pdf 1989 Renewals 2.pdf 1999.04.12 memo solid minerals asst field mgr to state director re renewal of preference right leases MNES 1352 & 1353 (1980-2000.000463).pdf 2003.07.18 ltr Forest Service Eastern Region to BLM ESO re renewal of preference right leases MNES 1352 & 1353 (1980-2000.000462).pdf 2003.11.12 ROD re add'l requirements to renew ACNC preference right leases (ESO.MNES1352.000166).pdf

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**Cc:** Karen Hawbecker; Richard McNeer

**Subject:** Re: Twin Metals opinion update

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**"Harris, Steve" <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>**

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**Sent:** Tue Nov 21 2017 13:06:04 GMT-0700 (MST)  
**To:** Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>  
**CC:** "McNeer, Richard" <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>, "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
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**CC:** "Harris, Steve" <steve.harris@sol.doi.gov>, "McNeer, Richard" <richard.mcneer@sol.doi.gov>  
**Subject:** Re: Twin Metals opinion update

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[<briana.collier@sol.doi.gov>](mailto:briana.collier@sol.doi.gov)

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Briana Collier  
Attorney-Adviser, Division of Mineral  
Resources  
U.S. Department of the Interior, Office of  
the Solicitor  
[505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102](mailto:505%20Marquette%20Ave.,%20NW%20Ste.%201800%20Albuquerque,%20NM%2087102)

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Steve Harris

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**"Harris, Steve" <steve.harris@sol.doi.gov>**

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**From:** "Harris, Steve" <steve.harris@sol.doi.gov>  
**Sent:** Tue Nov 21 2017 14:05:00 GMT-0700 (MST)  
**To:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**CC:** Karen Hawbecker <karen.hawbecker@sol.doi.gov>, "McNeer, Richard" <richard.mcneer@sol.doi.gov>  
**Subject:** Re: Twin Metals opinion update

OK. Thanks, Briana. Checking in one last time. I'll check it early tomorrow. -- Steve

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<[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)> wrote:

Briana:

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Richard

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Hi Karen, Richard: Given the tight timeline here, how would you like to proceed for reviewing Jack's new draft tomorrow? Would you like me to review? If so, should I review first? I am happy to be involved, or not, as you see fit. I can also sign on early tomorrow from home if that will help move things along. Thank you. -Briana

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<[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)> wrote:

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On Nov 20, 2017, at 8:16 AM, Haugrud, Kevin  
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I didn't get as far as I had hoped this weekend (but did complete a different m-opinion, just so you don't think I was slacking), so I expect to have the next draft to review Tuesday morning.

On Sun, Nov 19, 2017 at 6:35 PM, Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)> wrote:

Thank you, Jack. When you send the new draft for review, I'll also share it with Steve

Harris. —Karen

Sent from my iPad

On Nov 18, 2017, at 9:50 AM, Kevin Haugrud <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)> wrote:

Thanks Briana. No need to apologize - I just wanted to see [REDACTED], so I'll take a look and make a cut. Thanks again for the quick turn around. Also, I didn't realize until yesterday evening that Gary was working on his own draft and he just gave me his ideas last night. So at this stage, given the time constraints, I am going to review everything this weekend and come up with a new draft. I will need this group and Gary to quickly review so we can get a draft for Dan's review as soon as possible next week.

**From:** Collier, Briana  
**Sent:** Friday, November 17, 2017 11:38 PM  
**To:** Haugrud, Kevin  
**Cc:** Karen Hawbecker; Richard McNeer  
**Subject:** Re: Twin Metals opinion update

Here is the revised opinion in redlined (and probably illegible) and clean versions. (b) (5) [REDACTED]

[REDACTED] I am happy to discuss if it needs more development. Thank you.

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
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**"Harris, Steve" <steve.harris@sol.doi.gov>**

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**From:** "Harris, Steve" <steve.harris@sol.doi.gov>  
**Sent:** Wed Nov 22 2017 04:04:11 GMT-0700 (MST)  
**To:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**CC:** Karen Hawbecker <karen.hawbecker@sol.doi.gov>, "McNeer, Richard" <richard.mcneer@sol.doi.gov>  
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No word yet?

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**"Harris, Steve" <steve.harris@sol.doi.gov>**

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**From:** "Harris, Steve" <steve.harris@sol.doi.gov>  
**Sent:** Tue Aug 07 2018 11:17:13 GMT-0600 (MDT)  
**To:** Briana Collier <briana.collier@sol.doi.gov>  
**Subject:** Fwd: Twin Metals opinion update  
M37036 Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-0135) (1).pdf 106.  
1965.07.09 MFR by ferrous metals branch chief re mtg with Rep Blatnik, INCO & DOI reps on leases (1959-1966.004902).pdf 113.  
1965.10.05 memo fm BLM dir to asst sec minieral resources re INCO's proposed preference right lease (1959-1966.004875).pdf 115. 1965.10.29 memo fm conservation div chief to USGS assoc dir re proposed INCO preference right lease terms (1959-1966.004855).pdf 108. 1965.08.18 MFR fm conservation div asst chief re INCO meeting at which INCO agreed to drop 50 year lease term (1959-1966.004899).pdf 120. 1966.01.10 memo fm USGS dir to secretary re congressional phone call to discuss INCO royalty lease terms (1959-1966.004818).pdf MNES-01352 1966 Lease.pdf 121. 1966.01.20 memo fm asst sec'y mineral resources to under sec re INCO royalty & performance negotiations (1959-1966.004813).pdf 1985.08.28 memo assoc distrct mgr to state director re recommendation on INCO min

## Attachments:

royalty waiver application (1980-2000.000549).pdf 1987.02.09  
memo Superior Nat'l Forest to regional forester re INCO lease  
renewals (1980-2000.000522).pdf 1986.07.09 ltr fm Asst Dist Mgr  
to State Director re recommendations for ES1352 & ES1353 lease  
renewals (ESO.MNES1353.000763).pdf 1986.07.09 memo asst  
district energy & minerals mgr to state director re INCO lease  
renewal recommendations (1980-2000.000537).pdf 1988.09.12  
ROD preference right lease renewals (1980-2000.000503).pdf  
1988.10.14 memo asst district mgr solid minerals to state director  
re lease renewal recommendations (1980-2000.000499).pdf  
1988.10.27 ROD vacating decision that leases ready for renewal  
because terms changed (1980-2000.000498).pdf 1989.04.25  
ROD preference right leases renewal under original lease terms  
(1980-2000.000501).pdf 1989 TMM Lease Renewals.pdf 1989  
Renewals 2.pdf 1999.04.12 memo solid minerals asst field mgr to  
state director re renewal of preference right leases MNES 1352 &  
1353 (1980-2000.000463).pdf 2003.07.18 ltr Forest Service  
Eastern Region to BLM ESO re renewal of preference right leases  
MNES 1352 & 1353 (1980-2000.000462).pdf 2003.11.12 ROD re  
add'l requirements to renew ACNC preference right leases  
(ESO.MNES1352.000166).pdf

12 of 13

## Forwarded conversation

Subject: **Re: Twin Metals opinion update**

-----

From: **Hawbecker, Karen** <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>

Date: Mon, Nov 20, 2017 at 10:54 AM

To: "McNeer, Richard" <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>, "Collier, Briana"

<[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>, Steve Harris <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>

Richard and Briana, I would definitely like the benefit of review from both of you. I've also added Steve Harris, so that we can get the benefit of his review for all citations and quotes. It would be great if I get input from you (Briana and Richard) before my review, but I'll see how my travel tomorrow aligns with the review time. I may just launch into the review whenever it arrives in the morning, if it happens to coincide with a time when I have some time to review. --  
Karen

On Mon, Nov 20, 2017 at 10:07 AM, McNeer, Richard <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)> wrote:

Briana:

Subject to Karen's approval, I propose that you do a quick review first, then send it to me. You are approved to telework on Tuesday, and to accrue up to three hours of compensatory time if needed to expedite this project.

Richard

On Mon, Nov 20, 2017 at 10:03 AM, Collier, Briana <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)> wrote:

Hi Karen, Richard: Given the tight timeline here, how would you like to proceed for reviewing Jack's new draft tomorrow? Would you like me to review? If so, should I review first? I am happy to be involved, or not, as you see fit. I can also sign on early tomorrow from home if that will help move things along. Thank you. -Briana

Briana Collier

Attorney-Adviser, Division of Mineral Resources

U.S. Department of the Interior, Office of the Solicitor

[505 Marquette Ave., NW Ste.1800](#)

[Albuquerque, NM 87102](#)

Phone: (202) 208-4853

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On Mon, Nov 20, 2017 at 6:19 AM, Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)> wrote:

Okay, Jack. I'll be traveling Tuesday morning, but will look for it on my iPad. I have a two hour layover in Chicago too. —Karen

Sent from my iPad

On Nov 20, 2017, at 8:16 AM, Haugrud, Kevin <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)> wrote:

I didn't get as far as I had hoped this weekend (but did complete a different m-opinion, just so you don't think I was slacking), so I expect to have the next draft to review Tuesday morning.

On Sun, Nov 19, 2017 at 6:35 PM, Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)> wrote:

Thank you, Jack. When you send the new draft for review, I'll also share it with Steve Harris. —Karen

Sent from my iPad

On Nov 18, 2017, at 9:50 AM, Kevin Haugrud <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)> wrote:

Thanks Briana. No need to apologize - I just wanted to see (b) (5) [REDACTED], so I'll take a look and make a cut. Thanks again for the quick turn around. Also, I didn't realize until yesterday evening that Gary was working on his own draft and he just gave me his ideas last night. So at this stage, given the time constraints, I am going to review everything this weekend and come up with a new draft. I will need this group and Gary to quickly review so we can get a draft for Dan's review as soon as possible next week.

**From:** Collier, Briana  
**Sent:** Friday, November 17, 2017 11:38 PM  
**To:** Haugrud, Kevin  
**Cc:** Karen Hawbecker; Richard McNeer  
**Subject:** Re: Twin Metals opinion update

Here is the revised opinion in redlined (and probably illegible) and clean versions. (b) (5) [REDACTED]

[REDACTED]. I am happy to discuss if it needs more development. Thank you.

Briana Collier

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[Albuquerque, NM 87102](#)

Phone: (202) 208-4853

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On Fri, Nov 17, 2017 at 4:42 PM, Collier, Briana

<[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)> wrote:

Okay, I'll send along what I have in a few hours. Thank you.

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
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[Albuquerque, NM 87102](#)

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On Fri, Nov 17, 2017 at 4:04 PM, Haugrud, Kevin

<[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)> wrote:

Please send the rough draft tonight and take the weekend off (at least on this issue).

On Fri, Nov 17, 2017 at 5:02 PM, Collier, Briana

<[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)> wrote:

Hi Jack,

I am still working away on editing the Twin Metals opinion according to your directions. I can have a rough draft ready tonight or a less rough draft ready on Monday morning, if time allows me to continue working on it over the weekend. Please let me know your preference.

Thanks very much,  
Briana

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
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-----  
From: **Collier, Briana** <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
Date: Mon, Nov 20, 2017 at 11:05 AM  
To: "Hawbecker, Karen" <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>  
Cc: "McNeer, Richard" <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>, Steve Harris <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>

Okay, sounds good. I will send Steve the relevant documents from the record so that he has them for quote/cite check. Thanks.

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
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[Albuquerque, NM 87102](#)

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-----  
From: **Hawbecker, Karen** <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>  
Date: Mon, Nov 20, 2017 at 11:35 AM  
To: "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
Cc: "McNeer, Richard" <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>, Steve Harris <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>

Briana, Could you send out to all of us a copy of the original M-Opinion for easy access? Thank you. --Karen

-----  
From: **Harris, Steve** <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>  
Date: Mon, Nov 20, 2017 at 11:38 AM  
To: "Hawbecker, Karen" <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>

Cc: "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>, "McNeer, Richard" <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>

Here it is.

--

-----  
Steve Harris

Paralegal Specialist

Division of Mineral Resources

Office of the Solicitor

U.S. Department of the Interior

Phone: (202) 208-5368

Fax: (202) 208-2225

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-----  
From: **Hawbecker, Karen** <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>  
Date: Mon, Nov 20, 2017 at 11:41 AM  
To: "Harris, Steve" <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>  
Cc: "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>, "McNeer, Richard" <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>

Thanks, Steve!

-----  
From: **Collier, Briana** <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
Date: Mon, Nov 20, 2017 at 3:16 PM  
To: Steve Harris <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>

Hi Steve, Here are the documents from the record cited in my version of the new Twin Metals M-opinion. Thanks!

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
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From: **Collier, Briana** <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>

Date: Mon, Nov 20, 2017 at 9:05 AM

Subject: Re: Twin Metals opinion update

-----  
From: **Harris, Steve** <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>

Date: Tue, Nov 21, 2017 at 6:01 AM

To: "Hawbecker, Karen" <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>

Cc: "McNeer, Richard" <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>, "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>

Does anyone know when to expect the new draft? (I have Briana's material.)

--

-----  
Steve Harris

Paralegal Specialist

Division of Mineral Resources

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U.S. Department of the Interior

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-----

From: **Karen Hawbecker** <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>  
Date: Tue, Nov 21, 2017 at 6:37 AM  
To: "Harris, Steve" <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>  
Cc: "McNeer, Richard" <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>, "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>

I can only say we expect it today.

Sent from my iPad

-----  
From: **Harris, Steve** <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>  
Date: Tue, Nov 21, 2017 at 8:11 AM  
To: Steve Harris <[shhotspur@gmail.com](mailto:shhotspur@gmail.com)>

----- Forwarded message -----  
From: **Collier, Briana** <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>

--

-----  
Steve Harris  
  
Paralegal Specialist  
  
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U.S. Department of the Interior  
  
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From: **Collier, Briana** <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
Date: Tue, Nov 21, 2017 at 8:50 AM



To: "Harris, Steve" <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>

Jack said "Tuesday morning."

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
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From: **Harris, Steve** <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>  
Date: Tue, Nov 21, 2017 at 3:06 PM  
To: Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>  
Cc: "McNeer, Richard" <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>, "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>

All:

I'm probably going to sign off for today. I'll check in early tomorrow morning to see where this stands. It will take me several hours to go through it.

-- Steve

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From: **Karen Hawbecker** <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>  
Date: Tue, Nov 21, 2017 at 3:08 PM  
To: "Harris, Steve" <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>  
Cc: "McNeer, Richard" <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>, "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>

I haven't had an update from Jack today about this. I'm standing by. Have a good evening, Steve.

Sent from my iPad

-----  
From: **Collier, Briana** <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
Date: Tue, Nov 21, 2017 at 3:28 PM  
To: Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>  
Cc: "Harris, Steve" <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>, "McNeer, Richard" <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>

FYI, Jack sent me a question on the draft at 10:30 am Eastern, but I haven't heard anything since.

Briana Collier  
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[Albuquerque, NM 87102](#)

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From: **Harris, Steve** <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>  
Date: Tue, Nov 21, 2017 at 4:05 PM  
To: "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
Cc: Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>, "McNeer, Richard" <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>

OK. Thanks, Briana. Checking in one last time. I'll check it early tomorrow. -- Steve

-----  
From: **Harris, Steve** <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>  
Date: Wed, Nov 22, 2017 at 6:04 AM  
To: "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
Cc: Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>, "McNeer, Richard" <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>

No word yet?

--

-----  
Steve Harris

Paralegal Specialist

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M-

Memorandum

To: Director, Bureau of Land Management

From: Solicitor

Subject: Reversal of M-37036, "Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-01353)"

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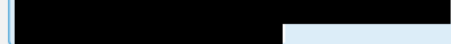
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July 9, 1965

ADMINISTRATIVE USE ONLY

## Memorandum

To: The Record

From: P. W. Guild  
Chief, Branch of Ferrous Metals

Subject: Meeting in Congressman Blatnik's office re Cu-Ni deposits in Minnesota

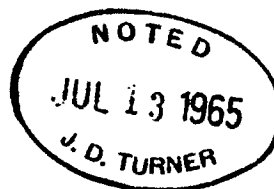
Subject meeting held July 7, 2:45 p.m., in Room 2449 New House Office Building. Present: Congressman John A. Blatnik, 8th District, Minnesota, his assistant, James Oberstar, Joe Pucel, Mayor of Ely, Minnesota, Henry S. Wingate, Chairman, International Nickel Company (INCO), William F. Kennedy, Secretary, Dean D. Rasmstad, Asst. V. P., and Phil Hanft, attorney for the Company, Charles Stoddard, Dir. Bur. Land Management, William Shafer, Chief, Mining Branch, BLM, Tom Cavanaugh, Solicitor's office, J. D. Turner, and P. W. Guild.

After brief opening remarks by the Congressman, Mr. Stoddard explained the position of BLM with respect to time limitations on leases--20 year maximum permitted, most shorter. A 50-year lease (as tentatively worked out by INCO about 10 years ago with Asst. Sec'y. Lewis) would lay Bureau (most politically sensitive in the Gov't.) open to charge of favoritism, cause numerous other companies to demand same. Shafer reviewed the rules briefly. Mr. Wingate then outlined the company position. They have (on basis of drilling and other work in mid-50's that cost \$1-1/4 million) found 2 deposits:

1) 200 M tons with 1% combined Cu and Ni, 75% Cu, 25% Ni, minor precious metals (Pt and Pd). Situated so close to river (the Kewishivi, here virtually a lake) that only 2/3 believed extractable.

2) 70 M tons, most can be extracted. Total minable (to 2,000 feet) 200 million tons. The ore marginal, the metallurgy will be difficult. Company proposes to invest \$80 M in mine and mill as soon as possible to mine 9 M tons/yr. over period of 21 years,  $\frac{1}{2}$ , and produce 100 M lbs. Cu, 25 M lbs. Ni annually.

Gross value/yr. Cu at \$0.35 - \$35 M  
Ni at 0.80 - 20 M  
\$55 M



Smelting and refining probably to be done in Canada, ship concentrates in bond, return metal. Only moderate (\$10 M) increase in capital costs; this exclusive of the \$80 M investment, which would be entirely in Minnesota. It would be out of the question to make this investment unless a firm lease for more than 20 years can be arranged--many mining properties are held in perpetuity; they have much longer leases in Canada and elsewhere.

This production would help close the U. S. copper supply-requirement gap, add to nickel supply, assist the balance of payments problem, etc. INCO is 50% U. S. owned, this is their major market, they would like to participate productionwise in the U. S. economy.

Mr. Kennedy reviewed the negotiations a decade ago that resulted in a plan for a 50-year lease with increasing rental/acre/yr. (which amounts to a minimum royalty in absence of production) and for a royalty that goes from 4% to 7% of gross market value of production. The company felt a commitment had been made. [Apparently the then Secretary did not agree.] *False JOF*

BIM people declared themselves not opposed to development. In any case, leases have always been renewed if active production going on, perhaps subject to renegotiation. This not acceptable to INCO--what would be the policy when this time comes? Can't finance on this basis. BIM afraid of setting precedent. I suggested that this the first but surely not last time this situation would occur as it becomes necessary to exploit lower grade, complex ores that will require large capital investment and extensive experience to meet nation's increasing requirements.

Mr. Stoddard agreed in principle to go along with INCO's request and instructed his people to look into ways of safeguarding interests of all concerned. The remainder of the meeting spent in discussing problems--BIM fears terms that will permit INCO to hold land without developing it. Repeated references to "production only in 49th year." Needed, a way to guarantee that company will perform. Agreed that renegotiation not a problem, the terms provide for reasonable, fair payments.

If the spirit of agreement reached orally can be realized on paper, a new pattern has evolved. Meeting ended amicably.

Copy to J. D. Turner  
Julian D. Feiss



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
WASHINGTON 25, D. C.

IN REPLY REFER TO:

INDB(722b)

OCT 5 1965

Memorandum

To: Assistant Secretary, Mineral Resources  
From: Director, Bureau of Land Management  
Subject: Proposed Preference Right Lease to International Nickel Company, Inc.

The form of the lease to be issued pursuant to the above-referenced applications has been adjusted to the apparent satisfaction of all concerned through re-negotiation with officials of the company, in which representatives of your office, the Solicitor's Office, the Geological Survey and this Bureau participated. The purpose of this re-negotiation was to bring the terms and provisions of the previously-proposed (1954) lease into conformity with the regulations and policies of the Department and to gain the best possible agreement that the company would begin productive operations during the primary term. In this, we believe we have been largely successful.

However, the representatives of the company now contend that the royalty schedule in the earlier lease proposal was unduly high. They wish to see this schedule adjusted as indicated below. The royalty schedule previously agreed to is also listed for purposes of comparison.

<u>1954 Proposal</u>		<u>1965 Proposal (INDB)</u>			
<u>Lease Years</u>	<u>Rate</u>	<u>Lease Years</u>	<u>Rate</u>		
1-10	4%	1-20	2%	3	10
11-25	5%	21-30	3 1/2%	4	10
26-50	7 1/2%	31-40	4%	5	10
		41-50	4 1/2%	6	20
					<hr/>
					50

In both of these proposals, the royalty rate would be applied to a value at one-third of the market price of the quantity of fully-refined copper and nickel contained in ores shipped to the smelter-rolling mill.

Since as we have been able to determine, the information currently available concerning this deposit does not differ materially from the information known to all the parties at the time the original agreement was reached in 1924, essentially, there has been no demonstration of a sufficient justification for such a drastic royalty reduction as the company now proposes.

In view of the relatively low grade of the ore and the consequently low recovery value, we would not oppose a reduction in the royalty if such is needed in order to encourage the company to explore and operate these lands. With this in mind, we submit the following schedule of royalties which we consider to be minimal.

#### LEADS

1-10  
11-20  
21-30  
31-40

#### MIN

4 -	25	3 1/2	10
5 -	45	4	5
	25	5	5
	25		

If you agree that the suggested rates are acceptable to the Department, we will recommend that to the company as a counter proposal.

Apparently, the resolution of the royalty question is the last point of difference between the company and the Department, and the issue can thus now be resolved.

In conclusion, we would also appreciate your comments with reference to the provision on additional royalty, Section 1(d).

*Charles H. Stoddard*

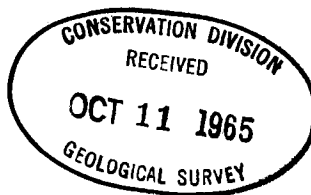


Harold Duncan

I put this card before the house  
for BLM to be taking the initiative  
re royalty rates. As near as I  
can make out they are picking  
figures out of the blue. I see  
no indication of a justification  
for their suggested rate.

Let's discuss a course of  
action

HDN



10/14 P.M.  
Call from Blatnick's office  
telling about need to make a deal.  
I said nothing warranted me to OK  
a change over the royalty rates agreed  
to in 1956.

10/14

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
GEOLOGICAL SURVEY  
WASHINGTON 25, D. C.

REFERRED BY  
STAFF COORDINATOR,

TO.....  
.....

INT.-DUP. SEC., WASH., D.C.

84016

October 29, 1965

**Memorandum**

**To: Associate Director, Geological Survey**

**From: Chief, Conservation Division**

**Subject: Proposed preference right lease to International  
Nickel Company, Inc.**

Assistant Secretary Moore by memorandum dated October 7 requested an opinion on the proposed change in royalty rates to be made applicable to two consolidated preference right nickel-copper leases for lands in Twp. 61 and 62 N., and Rgs. 10, 11 and 12 W., St. Louis and Lake Counties, Minnesota.

The Federal lands involved originally covered several prospecting permits, some in the name of International Nickel and many obtained by International through purchase from individual permittees or by executing operating agreements. Eventually the several permits were combined into groups of two leases, the North lease, HLM-A-030141 covering ten prospecting permits for 2,326 acres, and the South lease, HLM-A-022697 covering seven permits for 2,612 acres.

The leases, if issued, will be outside the Superior Roadless area and have large areas of fee lands interspersed. Some of the prospecting permits were issued in 1951.

By memorandum of May 11, 1956, we reported to the Bureau of Land Management that 36 core holes had been drilled and records indicated nickel and copper of less than 1 percent.

International was well aware of the low mineral value per ton of ore and even in 1954, used a \$7 per ton value.

In considering the terms and conditions to be inserted into the lease, the minimum rentals and royalty rates were the subject of many long discussions between department and company representatives, many of which were attended by representatives from the Forest Service. Nowhere could we find a fee land nickel lease or a precedent for consideration nor could International supply

lease contracts--for it owned its deposits by purchase, or option to purchase, as do most mining companies operating in other countries and in most areas of the United States. Therefore, the royalty rates finalized in 1956 represented the best considered judgment of all parties concerned and I am not aware of any reason to change at this time.

One primary point of contention was the lease term. The regular lease provides for establishing a royalty for a period of 20 years with the right of renewal for 10 year periods thereafter, but on such terms and conditions as may be prescribed by the Secretary at each renewal date. International was unwilling to accept any such limited term for fixed royalties because of the large investment needed to get into operation. Thus, the term of 50 years and the fixed royalty rate for the entire term of 4 percent for 10 years, 5 percent for the next 15 years and 7 1/2 percent for the next 25 years.

All these terms were approved by the secretariat. Other favorable terms to International agreed to in the Department were the combining of the many permits into two leases thereby reducing 17 independent permit or lease obligations into two contracts. This combination permitted better planning of underground mine development and eliminated unnecessary property line protection provisions.

Following our recommendations of May 11, 1956, representatives of the Quetico-Superior International Peace Memorial Forest met with International, Interior and Forest Service representatives urging restrictions limiting structures and facilities on the leased land and that the ore concentration plant be located a substantial distance from "the edge of the Roadless area and from areas having recreational values." Of course, International could not accept such suggestions without further study as in previous conferences the plan of operations for mining favored the return of the tailings to the mine to prevent surface subsidence as mining would be along and under a river. Any requirement to haul ore 8 to 10 miles and return the tailings to the mine would increase costs materially.

Thereafter, the actual issuance of the two preference leases has been, and remains, suspended by Departmental approval.

I quote from a memorandum dated June 18, 1959, in the files from the Deputy Mining Supervisor which indicates the government frowned

on issuance of leases until a critical need for a supply of copper and nickel exists.

"On Saturday, June 6, 1938, in Ely, Minnesota, the writer and Bismore interviewed several persons concerning International Nickel Company's activities in the area.

"The records show that the last prospecting on permit land was done in the fall of 1937. Since that time they have not had a Geologist in the area. It is not known when any more work will be done on the permits.

"The Better Business Committee of Ely had written to their Congressman concerning pending leases to Inco. They had copies of letters from the Congressman, Department of the Interior and Department of Agriculture. For practical purposes the letters stated that the leases would not be issued until there was a critical need for a supply of copper and nickel in this country."

Now, it appears the question of a "critical need for copper and nickel" no longer governs but instead the local economic situation.

Demands have been made on International to begin mining to relieve unemployment in the Ely area.

Apparently, International has insisted on a greatly reduced royalty if it considered a 20-year fixed term lease and presumably the usual conditions for renewal without fixed royalty terms. In other words, we are back where we started in 1934 on terms and a demand by the Company for concessions if less than a 50-year term is demanded by the Department.

I have seen nothing in the files to warrant a reduced royalty rate suggested by International of 3 percent for 20 years, 3 1/2 percent for 10 years, 4 percent for 10 years and 4 1/2 percent for 10 years. Likewise, I find little justification for the reduction proposed by the Bureau of Land Management of 3, 4, and 5 percent for three 10 year periods and 6 percent for the last 20 years of a 50-year period.

I question any actual mining within the foreseeable future although more core drilling may take place. Inco is developing new sources of higher grade nickel ore in Canada and other

countries and there is, I am informed, a large stock pile of nickel in the United States.

One might very well raise the question "Why develop the only source of nickel in the U. S. at this time?"

For your information 25 percent of the income is returned to the State for public roads and schools in the county in which the leases are situated and 10 percent is used for construction of roads and trails in national forests in the State.

I would be glad to discuss the Inco and Bureau of Land Management proposals with you, if necessary.



Chief, Conservation Division

cc: ✓ Conservation Division File  
Desk File (HJD)

HJDuncan/fwq



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
GEOLOGICAL SURVEY  
WASHINGTON, D.C. 20242

August 18, 1965

Memorandum

To: Conservation Division Files

From: Assistant Chief, Conservation Division

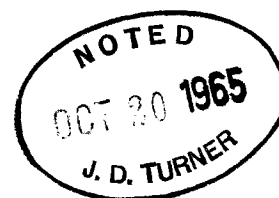
Subject: Phone call from Julian Feiss re meeting with  
International Nickel

Julian Feiss, Staff Geologist, Office of Assistant Secretary-- Mineral Resources, Fred Ferguson, Solicitor's Office, and Edward Steubing, Bureau of Land Management (Bill Shafer's successor) went to Congressman John A. Blatnick's office to confer with a new attorney, Philip M. Hanft of Duluth, and the Assistant Vice President from International Nickel Company, Dean D. Raustad of New York. Bill Shafer also came. Feiss did not realize until the meeting was under way that no one from Survey had been called. Feiss said that the meeting was on a friendly, cooperative basis, and that Inco has agreed to accept the standard lease form, to drop the 50-year development business, and is now wanting to negotiate royalty terms. Feiss said the Survey should be represented before any royalty discussions are held, so we can soon expect Inco to want a meeting but do not know when it will be held.

  
R. E. Spratt

cc: Mr. Duncan  
Mr. Turner

RESpratt:mes





UNITED STATES  
DEPARTMENT OF THE INTERIOR  
GEOLOGICAL SURVEY  
WASHINGTON 25, D. C.

ES-01353

IN REPLY REFER TO:

Memorandum

To: Secretary of the Interior  
Through: Assistant Secretary--Mineral Resources

From: Director, Geological Survey

Subject: Congressman John A. Blatnik may telephone the Secretary

Congressman John A. Blatnik of Minnesota, who has done an admirable job of vitalizing the taconite mining industry in Minnesota, has been trying to act as a catalyst in getting INCO (International Nickel Company) to take up its Federal leases and create a copper-nickel mine operation about 10 miles southeast of Ely, Lake County, Minnesota.

In 1954-56 negotiations between our Conservation Division specialists and INCO representatives resulted in a mutually acceptable lease arrangement, with option for lease continuing since 1956. The lease term is 50 years with royalty provisions based on one third of the "gross value" (specifically defined) as follows:

4% for 10 years	10 @ 4%	
5% for 15 years	10 @ 4 1/2%	50 @ 5.3%
	10 @ 5%	
7 1/2% for 25 years	10 @ 6%	
	10 @ 7%	

50 @ 6%

In recent months INCO requested a reduction of the agreed-upon royalty rates prior to issuance of the lease. Its position is being strongly supported by the Congressman under the impression, perhaps correct, that if INCO gets its terms it will commence operations immediately.

We have made a thorough restudy of the problem and see no compelling technical or economic factors justifying a reduction of the original royalty terms. We recommend the lease be offered on the basis of the original royalty rates. If some special inducement needs to be created, the public interest should be protected by insertion of a "performance" clause for development and production. With acceptance



of the recommended royalty rates a "reentry" clause for royalty adjustment might be introduced permitting revaluation and lowering of the royalty rates if justified after some operating experience.

The basic issue revolves around a value judgment as to how much profit is fair and reasonable or desirable for a mining company. The present disparity is measured only in a few pennies per ton. It should be kept in mind that 25 percent of all income is returned to the State for public roads and schools in the county in which the leases are situated and 10 percent for construction of roads and trails in national forests in the State.

I cannot in good conscience in the best public interest recommend revising in favor of DCO either the "gross value" factor or the royalty percentage figures.

Mr. J. L. Oberstar, representing the Congressman in recent discussions, said he would ask Congressman Biatnik to telephone the Secretary about this problem.

*W. T. Pecora*

W. T. Pecora  
Director

cc:  
MGS General Files  
Director's Chron.  
Conservation Div. Files  
Assistant Sec--MR 2 ✓  
Desk File (HJD)  
Desk File (Mining)

W. T. Pecora/dj      1-10-66

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

MINERAL LEASE

This lease entered into on the 1st day of June, 1966 between the United States of America, as Lessor, through the Bureau of Land Management, and The International Nickel Company, Inc., a Delaware corporation with offices at 67 Wall Street, New York, New York, as Lessee, pursuant to the authority set out in, and subject to, Section 402 of the President's Reorganization Plan No. 3 of 1946, 60 Stat. 1099, and the Act of June 30, 1950, 64 Stat. 311, and to all regulations of the Secretary of the Interior now in force when not inconsistent with any of the provisions herein.

WITNESSETH:

Sec. 1. (a) Rights of Lessee. In consideration of the rents and royalties to be paid and conditions and covenants to be observed as herein set forth the Lessor grants to the Lessee, subject to all privileges and uses heretofore duly authorized and prior valid claims, the exclusive right to mine, remove, and dispose of all the copper and/or nickel minerals and associated minerals and, with the exception of oil, gas, oil shale, coal, phosphate, potassium, sodium, or sulphur, any other minerals in, upon, or under the following described lands in the United States, in the State of Minnesota:

In Lake County:

Township 61 North, Range 11 West of the Fourth Principal Meridian:

Section 3, Lot 2  
SW-1/4 of SW-1/4  
S-1/2 of SE-1/4  
Section 5, Lots 1 and 2  
S-1/2 of NE-1/4  
Lot 6  
Lot 7  
NE-1/4 of SW-1/4  
S-1/2 of SW-1/4  
N-1/2 of SE-1/4

Section 6, Lots 13, 22, 23 and 24  
Section 7, Lots 1, 2, 3, 4, 9, 10, 12, 15, 16 and 19  
Section 8, Lots 2 and 6  
Section 9, All except W-1/2 of NW-1/4  
Section 18, Lots 2, 7, 9, 12, 13, 14, 15, 16, 17, 18  
19 and 20

Section 19, Lots 2, 3, 4, 5, 7 and 8

Township 62 North, Range 11 West of the Fourth Principal Meridian:

Section 27, SE-1/4 of SW-1/4  
Section 32, Lot 4  
Section 33, Lots 6 and 7  
Section 34, NW-1/4

In St. Louis County:

Township 61 North, Range 12 West of the Fourth Principal Meridian:

Section 25, Lot 2  
SW-1/4 of SW-1/4

containing ~~2,569.87~~ acres, more or less, together with the right

2,610.07

SEE DECISION 9-1-66

to construct and maintain thereon such structures and other facilities as may be necessary or convenient for the mining, preparation, and removal of said minerals, for a period of twenty (20) years with a right in the Lessee to renew the same for successive periods of ten (10) years each in accordance with regulation 43 CFR § 3221.4(f) and the provisions of this lease.

(b) Authorized Agency Representative. The United States agency having administrative control over the surface use of the land is the Department of Agriculture and its authorized agency representative, hereinafter called the "Authorized Officer," to whom inquiries should be addressed is the Supervisor, Superior National Forest at Duluth, Minnesota.

Sec. 2. In consideration of the foregoing, the Lessee agrees:

(a) Rentals. To pay to the Lessor annually in advance, beginning with the date of this lease, rental of one dollar (\$1.00) for each acre or fraction thereof for each lease year until production commences, the rental payment for the year in which production commences to be credited on royalties that accrue during that lease year.

(b) Royalty. To pay the Lessor within 30 days after the end of each period prescribed in subsection (e) of this section a royalty (i) at the rate of 4% during the first ten years of the primary term and (ii) at the rate of 4-1/2% during the second 10 years of the primary term, of the gross value of the minerals mined hereunder which are shipped to the concentrating mill during each such period. Said value for the purposes of this Agreement shall be taken to be one-third of the market prices of a quantity of fully-refined copper and of a quantity of fully-refined nickel equal to the respective quantities of unrefined copper and unrefined nickel contained in said minerals so shipped to the concentrating mill.

(c) Minimum royalty. Beginning after the tenth year of the lease, except with respect to any periods during which operations are interrupted by strikes, the elements or casualties not attributable to the Lessee, to mine each year from the area covered by the lease a quantity of the leased minerals such that the royalties payable for said year under subsections (b) and (d) hereof will during the primary term of the lease be at least equal to \$5 per annum per acre included in the leased premises at the beginning of such year, and during each renewal period of the lease be at least equal to \$10 per annum per acre included in the leased premises at the beginning of such year; or in lieu thereof to pay the Lessor as royalty within 30 days after the end of such year that amount which, when added to the royalties, if any, payable for said year under subsections (b) and (d) hereof, will equal the minimum royalty for that year herein provided. Lessor may in its discretion, waive, reduce, or suspend the minimum royalty payment for reasonable periods of time in the interest of conservation or when such action does not adversely affect the interest of the United States of America in accordance with the regulation 43 CFR § 3222.6-2.

(d) Additional royalty. (1) In order to provide a royalty in respect of any associated products (as hereinafter defined), to pay the Lessor within 30 days after the end of each period prescribed in subsection (e) of this section an additional royalty of 0.3% of the gross value of the minerals mined under this lease (determined on the basis of their copper and nickel content as provided in subsection (b) of this section) which are shipped to the concentrating mill during such

period. During the first ten years of the lease such additional royalty shall not be payable if the Lessee demonstrates that no associated products are being recovered from the minerals mined under this lease, but beginning after the tenth year of the lease, such additional royalty shall be payable whether or not associated products are recovered from the minerals mined under this lease.

(2) The Lessee will also pay the Lessor within 90 days after the end of each lease year a further additional royalty of 1% of the amount, if any, by which the gross value of associated products exceeds 20% of the aggregate market price as fully-refined metals of the quantity of copper and nickel contained in the minerals mined under this lease which are shipped to the concentrating mill during such lease year. At the request of either party following any lease year for which said 1% royalty has been payable and the gross value of associated products exceeds 30% of the said aggregate market price, representatives of the Lessor and the Lessee shall meet at a mutually agreeable time to consider and decide whether additional royalty for associated products shall continue to be payable as provided in this subsection (d), or shall (in lieu thereof) be payable on such basis as may be negotiated. In connection with such meeting the Lessee will make a reasonable investigation to ascertain insofar as practicable the volume of associated products which appear to be currently recovered from the minerals mined under this lease, and will provide the Lessor with the results of this investigation.

(3) For purposes of this agreement, the term "associated products" shall mean (i) fully-refined chemical elements (other than copper and nickel) not further processed and (ii) end products containing such elements produced by the Lessee (prior to full refining) for their value as such (other than products valuable chiefly by reason of their copper and/or nickel content), which are, in either case, recovered by the Lessee from minerals mined under this lease and sold or used by the Lessee during the lease year for which additional royalty, if any, is due; and the gross value of such products shall be taken to be the aggregate of the market prices of the respective quantities of associated products so sold or used by the Lessee.

(e) Statement. To furnish for each month or such longer period as may be prescribed by the Regional Mining Supervisor of the Geological Survey, statements in detail in such form as may be prescribed by him, of the amount and value under subsection (b) of this section of the minerals mined hereunder which are shipped to the concentrating mill during such period, for use in determining royalties, such statements to be furnished within 30 days from the close of such period. Falsification of such statements shall be grounds for cancellation of the lease.

(f) Market prices. For the purposes of this section the "market price of fully-refined copper" per pound shall be the average of the monthly average prices per pound for Domestic Refinery Electrolytic Copper in carload lots, f.o.b. Atlantic Seaboard refineries, published in E. & M. J. Metal and Mineral Markets for the period for which the royalty is being computed, and the "market price of fully-refined nickel" per pound shall be the average of the monthly average prices per pound for nickel (i.e., electrolytic nickel cathodes) in carload lots, f.o.b. Port Colborne, Ontario, Canada, United States import duty (if any) included, published in E. & M. J. Metal and Mineral Markets for the period for which royalty is being computed; and the respective "market prices of associated products" per unit

shall be the average of the monthly average prices per unit for such respective products in their usual and customary shipping quantities, f.o.b. their usual and customary place of disposal, published in E. & M. J. Metal and Mineral Markets for the period for which additional royalty, if any, is being computed.

(g) Bond. To furnish and maintain a bond in the sum of \$ 10,000.00 conditioned upon compliance with the terms and conditions of this lease, and to increase the amount thereof or furnish such other bond as may be required.

(h) Inspection. To permit at all reasonable times: (1) inspection by any authorized officer of the leased premises and all surface and underground improvements, works, machinery, equipment, and all books and records pertaining to operations and surveys or investigations under this lease; and (2) the Lessor to make copies of and extracts from any or all books and records pertaining to operations under this lease.

(i) Maps--Reports. To furnish, in duplicate, to the Regional Mining Supervisor, at such times as he may require, a plat in the manner and form prescribed by him showing prospecting and development work and improvements on the leased land and other related information, with a report as to all buildings, structures, and other works or equipment, situated elsewhere and owned or operated in conjunction with, or as a part of the operations conducted hereunder.

(j) To comply with all regulations of the Secretary of the Interior and the Secretary of Agriculture applicable to the leased premises which are under his jurisdiction; and to conduct operations in an orderly manner and in accordance with regulations in 30 CFR, Part 2250, and the applicable Federal and State laws; and to exercise reasonable diligence, skill, and care in the operation of the property; and to carry on all operations in accordance with approved methods and practices, having due regard for the prevention of damage to mineral deposits, water horizons and property, injury to life and health, and economic waste.

(k) Taxes. To pay when due all taxes lawfully assessed and levied under the laws of the State or the United States upon improvements, output of mines, and other rights, property, and assets of the Lessee.

(l) Deliver Premises. To deliver up to the Lessor in good order and condition and subject to the provisions of Section 9 hereof on the termination of this lease as a result of forfeiture thereof the lands covered thereby, including all underground timbering and such other supports and structures as are necessary for the preservation of the mine.

(m) Assignment. Not to assign this lease, or any interest therein, whether by direct assignment, operating agreement, working or royalty interest, or otherwise, nor sublet any portion of the leased premises, except with the approval in writing of the Lessor. All such assignments or subleases must be submitted in triplicate within 90 days from the date of execution and must contain all of the terms and conditions agreed upon by the parties thereto. Not to create overriding royalties in excess of those authorized by regulation 43 CFR § 3226.1.

An assignment of all or part of the record title to a portion of the acreage in the lease shall separate the lease into separate leaseholds and the terms hereof shall apply

7-11-46  
for memo  
Reg. Sec.  
Mining  
Staff (1226)  
7-11-46

separately to the segregated portions. Advance annual rental payments, if previously terminated, shall be resumed as to an undeveloped segregated portion on the next anniversary date of the lease; the minimum royalty payment herein specified shall apply separately to the segregated portions and the time allowed within which to commence operations on an undeveloped segregated portion shall be such reasonable period as shall be prescribed by the Lessor at the time the assignment is approved.

(n) Nondiscrimination Clauses. In connection with the performance of work under this contract, the Lessee agrees as follows:

(1) The Lessee will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Lessee will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Lessee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the authorized contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The Lessee will, in all solicitations or advertisements for employees placed by or on behalf of the Lessee state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

(3) The Lessee will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the said labor union or workers' representative of the Lessee's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Lessee will comply with all provisions of Executive Order No. 10925 of March 6, 1961, as amended, and of the rules, regulations, and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.

(5) The Lessee will furnish all information and reports required by Executive Order No. 10925 of March 6, 1961, as amended, and by the rules, regulations, and orders of the said Committee, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Committee for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Lessee's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the Lessee may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 10925 of March 6, 1961, as amended, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order or by rule, regulation, or order of the President's Committee on Equal Employment Opportunity, or as

otherwise provided by law.

(7) The Lessee will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the President's Committee on Equal Employment Opportunity issued pursuant to section 303 of Executive Order No. 10925 of March 6, 1961, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Lessee will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the Lessee becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Lessee may request the United States to enter into such litigation to protect the interests of the United States.

(o) Payments. Rentals under this lease shall be paid to the Manager of the proper Land Office, except that when this lease becomes productive the rentals and royalties shall be paid to the Regional Mining Supervisor of the United States Geological Survey, with whom all reports concerning operations under the lease shall be filed. All remittances to the Bureau of Land Management shall be made payable to the Bureau of Land Management, those to the Geological Survey shall be made payable to the United States Geological Survey.

Sec. 3. Lessee further agrees:

(a) Protection of Property. To conduct all operations hereunder with due regard for good land management, not to cut or destroy timber without previous permission from the Authorized Officer and to pay for such timber at rates prescribed by him; to avoid damage to improvements, timber, crops, or other cover; unless otherwise authorized by the Authorized Officer, not drill any well, carry on operations, make excavations, construct tunnels, drill, or otherwise disturb the surface of the lands within 200 feet of any building thereon and whenever required in writing by the Authorized Officer, and upon any partial or total relinquishment, cancellation or termination of this lease as to that portion of the land to which his rights have terminated, to fence or fill all sump holes, ditches and other excavations, remove or cover all debris, and so far as reasonably possible, reseed or otherwise restore the surface of the lands to their former condition, or to a productive or other condition satisfactory to the Authorized Officer, including the removal of structures as and if required, and when required by such Officer to bury all pipelines below plow depth.

(b) Fire precautions. To do all in his power to prevent and suppress fires on the land and vicinity, and to require his employees, contractors, and subcontractors to do likewise. Unless prevented by circumstances over which he has no control, to place his employees, contractors, and subcontractors at the disposal of the Authorized Officer for the purpose of fighting fires on or originating on the land or on adjacent areas or caused by the negligence of the Lessee or his employees, contractors, and subcontractors, with the understanding that payment for such services shall be made at rates to be determined by such Authorized Officer but not less than the current rates of pay prevailing in the vicinity for services of a similar character: Provided, that if the

Lessee, his employees, contractors, or subcontractors, or employees of any of them, caused or could have prevented the origin or spread of said fire or fires, no payment shall be made for services so rendered. During periods of serious fire danger, as may be specified by the Authorized Officer, the Lessee shall prohibit smoking and the building of camp and lunch fires by his employees, contractors, and subcontractors, within the leased area except at established camps, and shall enforce this prohibition by all means within his power: Provided, that the Authorized Officer may designate safe places where, after all inflammable material has been cleared away, campfires may be built for the purpose of heating lunches and where, at the option of the Lessee, smoking may be permitted. The Lessee will not burn rubbish, trash, or other inflammable materials except with the consent of the Authorized Officer. The Lessee shall build or construct such fire lines or do such clearing on the land as the Authorized Officer decides is essential for forest, brush, and grass fire prevention which is or may be necessitated by the exercise of the privileges authorized by this lease, and shall maintain such fire tools at his headquarters or at the appropriate location on the land as are deemed necessary by such Officer.

(c) Approval of Construction. Not to clear or use the land for development or for construction purposes of any kind until a plan of construction and development therefor has been approved by the Authorized Officer and that in the location, design, construction and maintenance of all authorized works, camps, buildings, plants, waterways, roads, telegraph or telephone lines, pipelines, reservoirs, tanks, pumping stations, or other structures or clearance, Lessee shall do all things reasonably necessary to prevent or reduce scarring and erosion of the land, pollution of the water resources and any damage to the watershed.

(d) Damage to Property. To pay the Lessor or its tenant, as the case may be, for any and all damage to or destruction of property caused by the Lessee's operations hereunder; to save and hold the Lessor or the surface owner or their tenants harmless from all damage or claims for damage to persons or property resulting from the Lessee's operations under this lease; and where the surface of the leased land is owned by other than the Lessor, to pay such owner, or his tenant, as the case may be, for damage or injury to livestock, crops, trees, pipelines, buildings, and other improvements of the leased lands. That where construction, operation, or maintenance of any of the facilities on or connected with this lease causes damage to the watershed or pollution of the water resources, to repair such damage and to take such corrective measures as are required by the Authorized Officer, including the reseedling or other restoration of the vegetative cover.

(e) Protection of Livestock; Access to Leased Lands. To install and maintain cattle guards to prevent the passage of livestock in any openings made in fences by the Lessee or his contractors to provide access to the lands covered by this lease for automotive and other equipment.

(f) Authorized Officer. All inquiries relating to this section should be addressed to the Authorized Officer named in Section 1(b) of this lease.

Sec. 4. Lessee--Agent. Prior to the beginning of operations the Lessee shall appoint and maintain at all times during the term of this lease a local agent upon whom may be served written orders or notices respecting matters contained in this lease, and shall inform the Authorized Officer and the Regional



Mining Supervisor of the Geological Survey, in writing, of the name and address of such agent. If a substitute agent is appointed, the Lessee shall immediately so inform the said Officers.

Sec. 5. Renewal Terms. The Lessor shall have the right to reasonably readjust and fix royalties payable hereunder at the end of the primary term of this lease and thereafter at the end of each successive renewal thereof unless otherwise provided by law at the time of the expiration of any such period, and to readjust other terms and conditions of the lease, including the revision of or imposition of stipulations for the protection of the surface of the land as may be required by the agency having jurisdiction thereof; provided, however, that the Lessee shall have the right to three successive ten-year renewals of this lease with any readjustment in the royalties payable hereunder limited to that hereinafter provided and with no readjustment of any of the other terms and conditions of this lease unless at the end of the primary term of this lease the Lessee shall not have begun production, either hereunder or under the companion lease granted to the Lessee this day. The Secretary of the Interior may grant extensions of time for commencement of production in the interest of conservation or upon a satisfactory showing by the Lessee that the lease cannot be successfully operated at a profit or for other reasons, and the Lessee shall be entitled to renewal as herein provided without readjustment except of royalties payable hereunder if at the end of the primary or renewal period such an extension shall be in effect, but the Lessee shall not be entitled to subsequent such renewals unless it shall have begun production within the extended time. If the Lessee shall be entitled to renewal without readjustment except of royalties payable hereunder, the Secretary of the Interior may in his discretion increase the royalty rate prescribed in subsection (b) of Section 2 up to, but not exceeding (i) 5% during the first ten-year renewal period, (ii) 6% during the second ten-year renewal period, and (iii) 7% during the third ten-year renewal period. The extent of readjustment of royalty, if any, to be made under this section shall be determined prior to the commencement of the renewal period.

Sec. 6. The Lessor expressly reserves:

(a) Rights Reserved. The right to permit for joint or several use easements or rights-of-way, including easements in tunnels upon, through, or in the land leased, occupied, or used as may be necessary or appropriate to the working of the same or other lands, and the preparation and shipment of the products thereof by or under authority of the Government, its Lessees or Permittees, and for other public purposes.

(b) Waiver of Conditions. The right to waive any breach of the covenants and conditions contained herein, but any such waiver shall extend only to the particular breach so waived and shall not limit the rights of the Lessor with respect to any future breach; nor shall the waiver of a particular cause of forfeiture prevent cancellation of this lease for any other cause, or for the same cause occurring at another time.

Sec. 7. It is mutually agreed:

(a) Mining Methods. That this lease does not authorize the mining or removal of the mineral deposits by stripping, rim cutting, or open pit methods without the prior written

approval of the Authorized Officer and on such conditions as he may prescribe.

(b) Reduction or Smelting of Ores. That the reduction or smelting of ores on the leased land is expressly prohibited in the absence of an agreement between the Lessee and the Authorized Officer authorizing such use of the surface of the land and providing for the necessary protection of life and property. Such agreement shall contain all of the terms and conditions under which the reduction or smelting of ores may be carried on and any violation of that agreement shall be considered a violation of the terms of this lease for the purpose of Section 10.

(c) Uses and Disposition of Surface. That the leased land shall be subject at all times to any other lawful uses or sale by the United States, its Lessees, Permittees, Licensees, and Assigns; provided that such uses or sale shall not prevent, obstruct, or unduly interfere with any privilege granted under this lease; Provided, that the Lessee shall recognize existing uses and commitments in the form of grazing, timber cutting, and special use permits, water developments, ditch, road, trail, pipeline, telephone and telegraph lines, fence, rights-of-way, and other similar improvements, and to conduct his operations so as to interfere as little as possible with the rights and privileges granted by these permits or with other existing uses.

(d) Granting Leases for Other Minerals. That the granting of this lease will not preclude the issuance of other leases of the same land for the purpose of mining and extracting oil, gas, oil shale, coal, phosphate, potassium, sodium, and sulphur.

Sec. 8. Relinquishment of Lease. The Lessee may surrender this lease or any one or more legal subdivisions included in the leased premises. If the lands are not described by legal subdivision, a partial relinquishment must describe definitely the lands surrendered and give the exact area thereof. A relinquishment must be filed in triplicate in the proper Land Office. Upon its acceptance, it will be effective as of the date it is filed, subject to the continued obligation of the Lessee and his surety to make payment of all accrued rentals and royalties, and to provide for the preservation of any mines or productive works or permanent improvements on the lands in accordance with the regulations and terms of the lease, and for the faithful compliance of all the terms of the lease.

Sec. 9. Removal of Equipment, etc., on Termination of Lease. On termination of this lease, by surrender, forfeiture, or otherwise, the Lessee shall have the privilege at any time within a period of one year thereafter of removing from the premises all machinery, equipment, tools, and materials, other than underground timbering placed by the Lessee in or on the leased lands, which are not necessary for the preservation of the mine. Any materials, tools, appliances, machinery, structures, and equipment, subject to removal as above provided, which are allowed to remain on the leased land shall become the property of the Lessor on expiration of the one-year period or such extension thereof as may be granted by the Lessor, but the Lessee shall remove any or all of such property when so directed by the Lessor.

Sec. 10. Proceedings in Case of Default. If the Lessee does not comply with the applicable regulations made a part hereof or the terms of this lease and such default continues for a period of 30 days, or such longer period as the Lessor determines may be reasonably required to correct the default, after service of written notice thereof by the Lessor, the Lessor may institute appropriate proceedings in a court of competent jurisdiction for the forfeiture and cancellation of this lease or seek such other administrative, legal or equitable remedies as may be appropriate. Furthermore, if the Lessee fails to take prompt and necessary steps to prevent loss or damage to the mine, property, or premises, or danger to the employees, the Lessor may enter on the premises and take such measures as may be deemed necessary to prevent such loss or damage, or to correct the dangerous or unsafe condition of the mine or works thereof, which shall be at the expense of the Lessee, but the Lessee shall not be held responsible for delays or casualties occasioned by causes beyond the Lessee's control.

Sec. 11. Heirs and Successors-in-Interest. Each obligation hereunder shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. Unlawful Interest. It is also further agreed that no Member of, or Delegate to, Congress, or Resident Commissioner, after his election or appointment, or either before or after he has qualified and during his continuance in office, and that no officer, agent, or employee of the Department of the Interior, except as provided in 43 CFR 7.4(a)(1), shall be admitted to any share or part in this lease or derive any benefit that may arise therefrom; and the provisions of Section 3741 of the Revised Statutes of the United States, as amended (41 U.S.C., Sec. 22), and sections 431, 432, and 433, Title 18 U.S.C., relating to contracts, enter into and form a part of this lease so far as the same may be applicable.

Sec. 13. Special Stipulations.

(a) In conformity with the principles of the Shipstead-Newton-Nolan Act of July 10, 1930 (16 U.S.C. 577), no occupancy or use of the surface within 400 feet of the shoreline of any lake or stream is authorized without the written approval of the Authorized Officer.

(b) Any and all operations authorized by this lease shall be done in accordance with a plan which must be submitted in triplicate and approved in writing by the Authorized Officer before such operations are begun. The operating plan will contain all such provisions as the Authorized Officer may reasonably determine are needed to maintain proper administration of the lands and surface resources. Where appropriate, depending upon the location and type of operation, the Authorized Officer may require the plan to contain provisions concerning the following matters:

1. The location and extent of areas to be occupied during operations.
2. The methods to be used in the operations.
3. The size and type of equipment to be used in the operations.
4. The capacity, character, standards of construction and size of all structures and facilities to be built.
5. The location and size of areas upon which vegetation will be destroyed or soil will be laid bare.

6. The steps which will be taken to prevent and control soil erosion.
7. The steps which will be taken to prevent water pollution.
8. The character, amount, and time of use of explosives or fire, including safety precautions which will be taken during their use.
9. The program proposed for rehabilitation and revegetation of disturbed lands.

If later operations require departure from or additions to the approved plan, revisions or amendments will be submitted in triplicate, with statements of the reasons for changes or additions, to the Authorized Officer for approval. Any and all operations conducted in advance of approval of an original, revised, or amended operating plan, or which are not in accord with an approved plan, constitute violations of the terms of this lease.

(c) If minerals from the leased premises be shipped outside the United States for treatment, Lessee shall, upon the call of the Lessor, and provided that there be no imposition of tariff, cause to be returned for sale or for use in the operations of the Lessee or of its affiliates in the United States quantities of copper equal to the quantities recovered from the minerals so shipped during the time of the call. The copper so returned shall be priced on no different basis than would then be applicable under circumstances prevailing had it been produced entirely within the United States and sold by a domestic producer, so that the prices will be competitive with those of domestic producers.

(d) Within 12 months after approval by the Authorized Officer Lessee will carry out a program in respect of this lease and the companion lease issued this day of drilling to ascertain the facts which will be essential to instituting production, and also will ship to the pilot plants of its parent company in Ontario, Canada, not less than 1,000 tons of ore to seek appropriate extractive metallurgical procedures therefor. The anticipated cost of the drilling program, to cover from 10,000 to 20,000 feet of drilling at an average cost of \$10 per foot is \$200,000. The estimated cost of preparing, transporting and treating the ore sample is \$125,000 to \$200,000; in addition revisions in and additions to the pilot plants in connection therewith are estimated to cost about \$250,000.

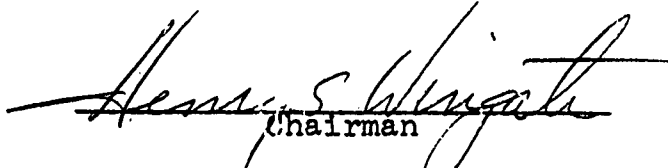
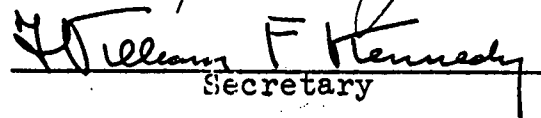
Sec. 14. Royalty Adjustment. If the Lessee shall have sunk a shaft for underground exploration or development or shall have otherwise commenced commercial development of the premises leased under this lease (or the companion lease issued to Lessee this day) within five years after the Regional Mining Supervisor shall have determined that the Federal and State governments have granted all necessary rights and authorizations for the construction, operation and maintenance of the leased premises, the rate of royalty payable under Section 2(b) with respect to the second ten years of the primary lease term shall be 4% in lieu of 4-1/2% as provided therein and the rates of royalty set forth in Section 5 shall not exceed (i) 4-1/2% during the first ten-year renewal

period, (ii) 5-1/2% during the second ten-year renewal period, and (iii) 6% during the third ten-year renewal period.

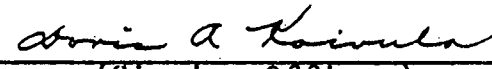
SIGNATURE OF LESSEE(S)

THE INTERNATIONAL NICKEL  
COMPANY, INC.

By

  
Chairman  
  
Secretary

THE UNITED STATES OF AMERICA

  
(Signing Officer)

Land Office Manager  
Eastern States Office  
(Title)

JUN 14 1966  
(Date)

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If this lease is executed by a corporation, it must bear the corporate seal.

#### EQUAL OPPORTUNITY

(a) The Nondiscrimination Clause, regarding "Equal Opportunity," in the attached mineral permit or lease, is amended by deleting references to the President's Committee on Equal Employment Opportunity, Executive Order No. 10925 of March 6, 1961, as amended, and section 303 of Executive Order No. 10925 of March 6, 1961, as amended; and substituting therefor the Secretary of Labor, Executive Order No. 11246 of September 24, 1965, and section 204 of Executive Order No. 11246 of September 24, 1965, respectively.

(b) In accordance with regulations of the Secretary of Labor, the rules, regulations, orders, instructions, designations, and other directives referred to in section 403(b) of Executive Order No. 11246, remain in effect and, where applicable, shall be observed in the performance of this contract until revoked or superseded by appropriate authority.

MEMORANDUM

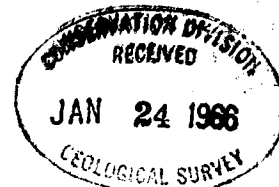
TO:

January 20, 1966

The Under Secretary

FROM: Assistant Secretary - Mineral Resources

SUBJECT: Inco Royalty Negotiations Meeting with  
Congressman Blatnik's Office



In accordance with your instructions Messrs. O'Leary and Standley of my office met today with Mr. James Oberstar of Congressman Blatnik's Office. It was suggested to Mr. Oberstar that the Department would consider accepting a reduction in our proposed royalty rates if a strict performance clause were included in the lease contract. No mention was made of a specific royalty rate reduction or the exact terms of a performance clause that would be acceptable to the Department. Our thoughts were that if these proposals were offered in generalized terms it would give the company room for further negotiations.

Mr. Oberstar said that he would discuss this proposal with officials of the International Nickel Company and relay back their reaction as soon as possible.

(sgd) J. Cordell Moore

EWStandley:ls

1/20/66

J. Cordell Moore

cc: Secretary File

Secretary Reading File

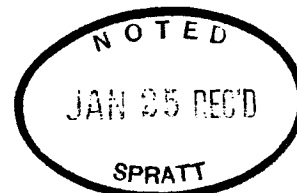
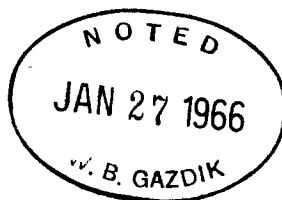
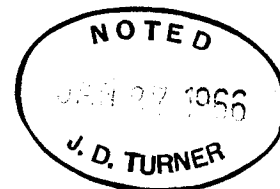
ASMR (2)

Mr. Standley

Mr. Pecora

Mr. Feiss

Mr. Duncan ✓



V. Vajt 8/28/85  
LST 8/28/85  
pJ 8/28/85

MDO:VV  
3500  
ES-01352  
ES-01353

28 AUG 1985

Memorandum

To: State Director (970)

From: Associate District Manager, Milwaukee

Subject: Recommendation Regarding an Application for Minimum Royalty Waiver  
Submitted by INCO Alloys International, Inc.

On June 26, 1985, INCO Alloys International, Inc. (INCO) submitted a minimum royalty waiver application for the five lease years from June 1, 1981 through May 31, 1986 (enclosed). This application requests waiver of minimum royalty payments based on the fact that low copper and nickel prices are preventing INCO from developing the properties. The company holds two Federal copper-nickel leases (ES-01352 and ES-01353) issued effective June 1, 1966. As of July 1, 1985, INCO owed the Federal government \$97,320 in past due minimum royalty payments for the lease years June 1, 1981 through May 31, 1985 (4 years).

With respect to minimum royalty, the subject leases contain the following clause:

Sec. 2 (c) Minimum royalty. Beginning after the tenth year of the lease, except with respect to any periods during which operations are interrupted by strikes, the elements or casualties not attributable to the Lessee, to mine each year from the area covered by the lease a quantity of the leased minerals such that the royalties payable for said year under subsections (b) and (d) hereof will during the primary terms of the lease be at least equal to \$5 per annum per acre included in the leased premises at the beginning of such year, and during each renewal period of the lease be at least equal to \$10 per annum per acre included in the leased premises at the beginning of such year; or in lieu thereof to pay the Lessor as royalty within 30 days after the end of such year that amount which, when added to the royalties, if any, payable for said year under subsections (b) and (d) hereof, will equal the minimum royalty for that year herein provided. Lessor may in its discretion, waive, reduce, or suspend the minimum royalty payment for reasonable periods of time in the interest of conservation or when such action does not adversely affect the interest of the United States of America in accordance with the regulation 43 CFR 3222.6.2.

Because these leases have never produced, minimum royalty payments were due beginning with the lease year June 1, 1976 through May 31, 1977. In response to applications submitted by INCO, waivers of the minimum royalty payments were granted for the five year period of June 1, 1976 through May 31, 1981. These waivers were granted as a result of annual waiver applications submitted by INCO, which cited the fact that the State of Minnesota was in the process of conducting environmental studies on the proposed mining operations, thereby preventing INCO from developing the leases. These environmental studies were completed in 1979, at which time INCO was free to submit applications to the State for mining. To date, no mining applications have been submitted to either the State, or the Bureau, nor have any minimum royalty waiver applications been submitted since 1981.

In accordance with Sec. 2(c) of the INCO leases, the Bureau has the authority to approve waivers of minimum royalty payments. The following is a summary of the analysis regarding the appropriate disposition of the waivers application.

1. Rationale for denial of the minimum royalty waiver

- a. Unwritten Bureau of Land Management policy specifies that waivers of lease terms are not granted based on market conditions. Market conditions and prices are considered to be normal business risks.
- b. The provision for minimum royalty in lieu of production requirements was a lease term arrived at through pre-lease negotiations between the Bureau and INCO. The intention of the minimum royalty is to spur development of the resource and, in effect, is the only diligence requirement contained in the subject leases. Waiver of minimum royalty removes all incentive for the timely development of the leases.
- c. Granting of the waiver would set an undesirable, long-term precedence due to the depressed copper market. The Government would forego future annual minimum royalty income of \$24,330 by granting the waiver.

If such a precedent were set, the government would be obligated to establish a commodity by commodity "threshold level" for granting waivers, a different "level" for granting royalty reduction, and a third "level" for the denial of both waivers and reductions.

- d. Section 2(c) states "Lessor may...waive...minimum royalty payments for reasonable periods of time...." Waivers were given for the first 5 years in which minimum royalty was due, constituting one-fourth of the initial lease term. The granting of additional waivers could be conceived to extend beyond a "reasonable period."

2. Rationale for approval of the minimum royalty waivers

- a. The Company appears to be best suited to develop the property because of its 1) expertise in Copper-Nickel mining of similar deposits and 2) extensive geologic knowledge of the subject leases.



- b. The Company can not develop the property because of factors beyond its control (i.e., low copper prices). The Interior Department granted waivers to INCO in the past because of ongoing environmental studies, a condition also beyond the control of INCO. The Department may have set a precedent by granting the original waivers.
- c. An action such as the denial of minimum royalty waivers which could result in lease termination may be counter to the development of the property. The likelihood of another company acquiring the property at this time is unlikely. In addition, the Bureau would incur costs for environmental analysis and competitive leasing in the event the property were to be re-leased.
- d. The Company invested over a million dollars and a substantial amount of time evaluating the property.
- e. This ore is especially difficult to process. The development of new processing technology would be required to enable the ore to compete with other copper ores.

We have considered the preceding arguments and find the reasons for denying the waiver request outweigh those for granting the request. All of the supporting reasons for denying the request are totally valid, however, many of those which support granting the request are weak. The following factors should also be considered:

- 2. a. - We cannot, with any certainty, determine that there is not another company interested in the property with as much or more expertise.
- 2. b. - The government is not obligated by INCO's expenditure in any way.
- 2. e. - It is possible that knowledge of available reserves would encourage other companies to consider developing the necessary technology quicker than INCO.

We therefore recommend that INCO's request for waiver of minimum royalty payments be denied. We also recommend that legal advice regarding the following questions be obtained prior to a final decision.

- 1. Is it possible to grant lease renewals for these leases when the leases have never been in production? The lease documents and the regulations are not clear on this point. This question will surely be asked by INCO since the initial 20 year lease term expires on May 31, 1986.
- 2. INCO has been given waivers of minimum royalty payments for five years due to condition beyond its control (i.e., environmental analysis), and is now asking for a waiver based on additional conditions beyond its control (i.e., low copper and nickel prices). Has FLM set a binding precedence by granting the original waivers?

3. Section 2(c) of the lease states "Lessee may...waive...minimum royalty payments for reasonable periods of time..." Waivers were given for the first 5 years they were due, which is one-fourth of the initial lease term. Would granting of further waivers be conceived to extend beyond a "reasonable period?"

If you have any questions concerning this recommendation, please call Vincent Vogt at FTS 362-4422.

Enclosure

*Bert Anderson*

cc: Dave Stewart (972)  
Jim Horan (971)  
DO RF  
ES RF  
Library RF  
030:V.VOGT:cod:8/26/85:1351D



UNITED STATES  
DEPARTMENT OF  
AGRICULTURE

FOREST  
SERVICE

Superior  
National  
Forest

515 West 1st Street  
P.O. Box 338  
Duluth, MN 55801

Reply to: 2820

Date: February 9, 1987

Subject: INCO Lease Renewals

To: Regional Forester

Enclosed is a finding of categorical exclusion for my decision to proceed with the extension of Bureau of Land Management mineral leases ES 01352 and ES 01353. Usually this document would be signed by you, but in this case the leases designate me as authorizing officer. The activities authorized by these leases can be conducted in conformance with the management direction found in the Forest Plan.

*Clay G. Beal*

CLAY G. BEAL  
Forest Supervisor

Enclosure

BUREAU OF LAND MANAGEMENT  
DIVISION OF SOLID MINERALS  
VV MAR 07 1989  
ROLLA, MISSOURI 65401



FINDING OF CATEGORICAL EXCLUSION

CONDITIONS OF EXTENDING BUREAU OF LAND MANAGEMENT LEASES

Lake and St. Louis Counties, Minnesota  
Superior National Forest  
Kawishiwi Ranger District

I have decided that the terms and conditions of Bureau of Land Management (BLM) leases ES 01352 and ES 01353 are adequate to prevent or mitigate unacceptable impacts and that no additional conditions need to be added prior to their renewal provided that none of the terms and conditions related to my authority are diminished in any manner.

These leases include approximately 4,945 acres of Federal minerals located in T61N, R11W; T62N, R11W; and T62N, R10W of Lake and St. Louis Counties, Minnesota.

Public comments were solicited by publishing notices in local news papers, by radio interviews, and by contacting individuals. There were five responses to the public involvement. Four respondents asked for additional information. After the information was sent, they did not comment further. The fifth respondent was against issuing the leases based on general principals and also claimed tribal ownership of minerals in the lease area. The respondent was informed that we are not deciding if the leases should be issued but instead are deciding if new restrictions need to be added before extending them and that the question of tribal ownership of minerals goes far beyond the scope of this analysis. A copy of the lease and other information was also sent to the respondent but again no additional comments were received.

The only significant concern identified by the Forest Service was that the lease does not specifically require INCO to comply with certain laws and regulations. I have decided that Section 13 which requires my approval of an operating plan plus the requirement in subsection 3 (J) that the lessee comply with regulations of the Secretaries of Agriculture and Interior and with applicable Federal and State laws gives me the broad authority needed to require compliance with applicable laws and regulations even though they are not specifically listed in the lease.

These leases have been in effect for 20 years and past experience has shown that their terms and conditions provide adequate authority to prevent or mitigate unacceptable impacts. During this time the area has been extensively explored, hundreds of test holes have been drilled, both surface and underground bulk samples have been taken, and a large scale open pit mining operation proposed and evaluated. At no time were the terms and conditions of the leases found to be inadequate.

Implementation of this decision will take place immediately. This decision is subject to administrative review pursuant to 36 CFR 211.18.

*Clay G. Beal*

CLAY G. BEAL  
Forest Supervisor

2-6-87  
DATE



FINDING OF NO SIGNIFICANT IMPACT / DECISION RECORD

Preference Right Lease Numbers: MNES 1352, MNES 1353

Proposed Action: Lease renewals, Superior National Forest

State: Minnesota; County: Lake, St. Louis; Acreage: 4,864.78

Background: The Superior National Forest has completed the attached "Finding of Categorical Exclusion", which analyzes the above proposed action. The Superior National Forest Supervisor signed this document on February 6, 1987, indicating that "the terms and conditions of Bureau of Land Management (BLM) leases ES 01352 and ES 01353 are adequate to prevent or mitigate unacceptable impacts and that no additional conditions need to be added prior to their renewal provided that none of the terms and conditions related to my authority are diminished in any manner." This analysis adequately addresses impacts associated with hardrock mineral lease renewals, and this proposal is within the scope of analysis covered by this document. The Forest Service consented to renewal of this lease via a letter submitted to the Eastern States Office of BLM dated June 19, 1987, with a letter of clarification following on March 24, 1988. The consent requires that the existing terms and conditions affecting surface uses be attached to the renewed leases.

Environmental Considerations: I have reviewed the above-referenced document and have considered the environmental consequences of this proposal. All environmental considerations have been adequately addressed in the above-referenced document.

Finding of No Significant Impact: Based on the analysis in the referenced environmental document, this decision will not result in any significant impacts to the environment, therefore an environmental impact statement is not required.

Vernant Vegt  
Assistant District Manager for Solid Minerals

3/7/89  
Date

Decision: It is my decision to approve the proposed action, subject to existing lease terms and conditions.

Rationale: The decision to renew this lease will not result in any undue or unnecessary environmental degradation.

\_\_\_\_\_  
District Manager, Milwaukee

\_\_\_\_\_  
Date



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
MILWAUKEE DISTRICT OFFICE  
P.O. BOX 631  
MILWAUKEE, WISCONSIN 53201-0631

IN REPLY REFER TO:

MDO:JN  
ES-1352  
ES-1353

09 JUL 1986

## Memorandum

To: State Director (970)

From: Assistant District Manager for Energy and Minerals, Milwaukee

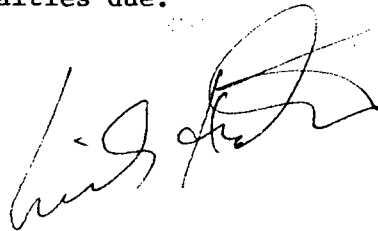
Subject: Recommendations for Lease Renewals, International Nickel Corporation Leases ES-1352 and ES-1353

Mineral leases ES-1352 and ES-1353, issued to the International Nickel Corporation (INCO), expired on June 1, 1986. These leases granted to INCO the right to mine ore containing copper, nickel, and associated minerals from Federal mineral lands in Lake and St. Louis counties, Minnesota. The surface management of these lands is the responsibility of the USDA, Forest Service.

During the initial 20-year lease term, no production was realized from the leases. On May 14, 1986, INCO filed for renewal of the leases. In response to your request of June 6, 1986, we are providing the following recommendations regarding the renewal of the leases:

1. The Bureau of Land Management, Eastern States Office, should require the payment by INCO of \$121,560 to the Minerals Management Service. This represents the total minimum royalties accruing from the two leases during the five lease years 1981-1986 (please refer to our memoranda to the State Director (970) dated April 15, 1985; August 28, 1985; and June 18, 1986).
2. The Bureau of Land Management, Eastern States Office, should request the USDA, Forest Service, to provide proposed additions, deletions, and changes to lease stipulations for the protection of surface values and the mitigation of impacts to surface uses and resources.
3. The State of Minnesota should be informed of the pending lease renewals.
4. The production royalties to be paid by INCO to the Federal government should be increased to 5% consistent with the provisions of other leases for metals mining in the district.

5. The minimum royalty in lieu of production should be set at \$3 per acre per year, consistent with the requirements set forth at 43 CFR 3503.2-2(b) and (c).
6. INCO should be required by lease stipulation or condition of renewal to produce 1% of the reserves present on either leased property by the date of lease expiration. Such production would result in the satisfaction of the requirement on both leases. Failure to comply with this stipulation would result in the termination of both leases.
7. Rental, as required by regulations at 43 CFR 3561.2-1(a) remains at \$1.00 per acre per year, and should be credited against any royalties which may accrue to the lease during the year for which the rental was paid.
8. Bond should remain at \$10,000 per lease until production is begun. At that time, the bond for each tract should increase to a level sufficient to ensure payment of royalties due.

A handwritten signature in dark ink, appearing to be "L. G. [unclear]", is written over the bottom right portion of the text.

*Gold*  
*7/18*

09 JUL 1986

## Memorandum

To: State Director (970)

From: Assistant District Manager for Energy and Minerals, Milwaukee

Subject: Recommendations for Lease Renewals, International Nickel Corporation  
Leases ES-1352 and ES-1353

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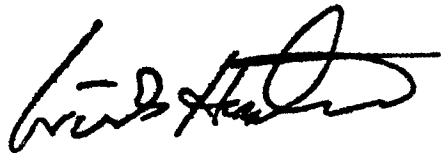
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3. The State of Minnesota should be informed of the pending lease renewals.
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8. Bond should remain at \$10,000 per lease until production is begun. At that time, the bond for each tract should increase to a level sufficient to ensure payment of royalties due.

cc: Dave Stewart (972)  
Loana McKenna (971)  
DO RF  
ES RF  
Library RF



030:JNolder:cr:7/9/86:2148A

3500(971)DBE  
MMES 1352  
MMES 1353

SEP 12 1988

CLASSIFIED NO. P 396 695 536

DECISION


INCO Alloys International, Inc. : Preference Right Leases  
One New York Plaza :  
New York, New York 10004 :

Preference Right Lease Renewals  
Lease Terms Transmitted for Signature

The Forest Service and the Bureau of Land Management have agreed to the renewal of Preference Right Leases MMES 1352 and MMES 1353 under the existing terms and conditions.

Five copies of the new lease forms are transmitted for your completion and return to this office within 30 days. Failure to comply within 30 days of receipt of this decision will result in the final rejection of this renewal without further notice. This decision will become final 30 days from receipt in the absence of an appeal.

You have the right to appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 2, and the enclosure Form 1842-1. If an appeal is taken, your Notice of Appeal must be filed in this office so the case file can be transmitted to the Board. A copy of your Notice of Appeal and of any statement of reasons, written arguments, or briefs must also be given to the Office of the Solicitor as shown on Form 1842-1. It is also requested that you send a copy of any statement of reasons, written arguments, or briefs to the office issuing the decision appealed. In taking an appeal, there must be strict compliance with the regulations.

  
Stuart F. Carlson  
Deputy State Director  
for Mineral Resources

2 Enclosures


cc: Commissioner, Department of Natural Resources, Centennial Office Building,  
St. Paul, Minnesota 55135

Forest Service, Milwaukee MIS

ESD RF 070 RF 071 RF (DBLH)

071:Dist:cc:18-17-P8:461-1644:(WAG 7142M)

Rolla Office

 BUREAU OF LAND MANAGEMENT  
DIVISION OF SOLID MINERALS

VV SEP 16 1988  
SV 94

ROLLA, MISSOURI 65401



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
MILWAUKEE DISTRICT OFFICE  
DIVISION OF SOLID MINERALS  
901 PINE STREET  
ROLLA, MISSOURI 65401



IN REPLY REFER TO:

October 14, 1988

## Memorandum

To: State Director (970)

From: Assistant District Manager for Solid Minerals, Rolla

Subject: Recommendations for Lease Renewals, International Nickel Corporation  
Hardrock Mineral Leases MNES-1352 and MNES-1353

On July 9, 1986, the Assistant District Manager for Energy and Minerals, Milwaukee District Office, BLM sent you a memorandum concerning the above subject. On February 1, 1988, the Rolla office also recommended that the leases be renewed in accordance with the provisions of the July 9, 1986 memo.

The 1986 memo was written with the assumption that the leases would be renewed on a new lease form and the negotiated terms and conditions contained in the original forms would be abandoned. Upon further review of the leases and their case files, I would like to revise our recommendations concerning the subject renewals.

The requirements indicated in items 1, 2, 3, 7, and 8 of the 1986 memo have either been previously met, or are already required under the original leases.

Item 4 of the 1986 memo discusses increasing the royalty rate to 5 % of an unspecified value. Section 14 of the original leases discusses a royalty adjustment to be made as follows: "If the Lessee shall have sunk a shaft for underground exploration...within five years after the Regional Mining Supervisor shall have determined that the Federal and State governments have granted all necessary rights and authorizations for the construction, operation and maintenance of the leased premises,...the rates of royalty set forth in Section 5 shall not exceed (i) 4-1/2 % during the first ten-year renewal period..." The fact that INCO sank a 1,100 foot deep exploration shaft in 1967 appears to fulfill the requirement for the 4-1/2 % royalty to remain in effect for the first ten-year renewal period.

Item 5 recommended lowering the minimum royalty to \$ 3 per acre per year. The present leases require a \$ 10 per acre per year minimum royalty payment. This high minimum royalty payment was agreed to through intensive negotiations and is intended to serve as the "production incentive" or "diligent development" provision in the leases, and should not be changed.

Item 6 recommends the imposition of a production requirement, similar to

the "diligent development" requirement included in all Federal coal leases. As mentioned previously, these INCO leases contain a high minimum royalty payment requirement, which was agreed would serve as the production incentive. I also think that it is inappropriate to impose such a requirement on these two hardrock leases when no other hardrock leases in our District contain such a requirement.

Because of the highly negotiated terms and conditions of these two leases, which contain many references to requirements to be applied during lease renewal periods, I recommend that these leases be renewed under the existing terms and conditions and in their present form, i.e., not on the new lease form. If you have any questions, please give me a call.

*Clinton Vest*



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

### EASTERN STATES OFFICE

350 South Pickett Street  
ALEXANDRIA, VIRGINIA 22304

BUREAU OF LAND MANAGEMENT  
DIVISION OF SOLID MINERALS

IN REPLY REFER TO:

3500(971)TDB  
MNES 1352  
MNES 1353

OCT 27 1988

NOV 07 1988  
ROLLA, MISSOURI 65401

CERTIFIED NO. P 897 290 486

### DECISION

INCO Alloys International, Inc. : Preference Right Leases  
One New York Plaza :  
New York, New York 10004 :

### Decision Vacated

This office notified INCO Alloys International, Inc., by decision dated September 12, 1988, that Preference Right Leases MNES 1352 and MNES 1353 were ready for renewal.

The decision of September 12, 1988 is hereby vacated because the new lease forms submitted for signature will alter the terms and conditions of the original leases.

Your applications for renewal have been resubmitted to our Milwaukee District Office (Rolla) for their recommendations. Upon receipt of these recommendations, you will be notified of the actions to be taken on your lease renewals.

This decision will become final 30 days from receipt in the absence of an appeal.

You have the right to appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4, and the enclosed Form 1842-1. If an appeal is taken, your Notice of Appeal must be filed in this office so the case file can be transmitted to the Board. A copy of your Notice of Appeal and of any statement of reasons, written arguments, or briefs must also be served on the Office of the Solicitor as shown on Form 1842-1. It is also requested that you send a copy of any statement of reasons, written arguments, or briefs to the office issuing the decision appealed. In taking an appeal, there must be strict compliance with the regulations.

Stuart F. Carlson  
Deputy State Director  
for Mineral Resources

Enclosure

cc: Forest Service, Milwaukee



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
EASTERN STATES OFFICE  
350 SOUTH PICKETT STREET  
ALEXANDRIA, VIRGINIA 22304



IN REPLY REFER TO:

3500(971)TDB  
MNES 1352  
MNES 1353

APR 25 1989

CERTIFIED NO. P 897 177 529

## DECISION

INCO Alloys International, Inc. : Preference Right Leases  
One New York Plaza :  
New York, New York 10004 :

### Preference Right Leases Renewed Lease Forms Transmitted for Signature

The Forest Service and the Bureau of Land Management have agreed to the renewal of the enclosed Preference Right Leases MNES 1352 and MNES 1353 under the existing terms and conditions of the original leases.

Enclosed are lease renewal forms transmitted for your signature and return to this office.

The above documents must be submitted to this office within 30 days of receipt of this decision. Failure to return the executed copies during this 30-day compliance period will result in the rejection of the offer upon the conclusion of this compliance period. During this compliance period there is no right of appeal to the Interior Board of Land Appeals and an appeal filed within the compliance period is subject to dismissal as being premature. The 30-day appeal period commences upon the expiration of the 30-day compliance period.

You have the right to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4, and the enclosed Form 1842-1. If an appeal is taken, your Notice of Appeal must be filed in this office so the case file can be transmitted to the Board. A

BUREAU OF LAND MANAGEMENT  
DIVISION OF SOLID MINERALS

UV MAY 01 1989  
SV 90

ROLLA, MISSOURI 65408

copy of your Notice of Appeal and of any statement of reasons, written arguments, or briefs must also be served on the Office of the Solicitor as shown on Form 1842-1. It is also requested that you send a copy of any statement of reasons, written arguments, or briefs to the office issuing the decision appealed. In taking an appeal, there must be strict compliance with the regulations.



Stuart F. Carlson  
Deputy State Director  
for Mineral Resources

2 Enclosures

cc: Commissioner, Department of Natural Resources  
Centennial Office Building  
St. Paul, Minnesota 55755

Minerals Management Services  
Reference Data Branch  
Team One (Attn: Debbie Obrin)  
P.O. Box 25165  
Denver, Colorado 80225

Forest Service, Milwaukee  
Rolla Office

## PART II. TERMS AND CONDITIONS

Sec. 1. (a) RENTAL RATE - Lessee shall pay lessor rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate indicated below:

*Sulphur, Gilsomite -*

☐ 50 cents for the first lease year and each succeeding lease year;

*Hardrock -*

☐ \$1 for the first lease year and \$1 for each succeeding lease year;

*Phosphate -*

☐ 25 cents for the first lease year, 50 cents for the second and third lease years, and \$1 for each and every lease year thereafter;

*Potassium, Sodium -*

☐ 25 cents for the first calendar year or fraction thereof, 50 cents for the second, third, fourth, and fifth calendar years respectively, and \$1 for the sixth and each succeeding calendar year; or

*Sodium, Sulphur, Asphalt, and Hardrock Renewal Leases -*

☒ \$ 1.00 for each lease year;

(b) RENTAL CREDITS - The rental for any year will be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

\* Sec. 2. (a) PRODUCTION ROYALTIES - Lessee shall pay lessor a production royalty in accordance with the attached schedule. Such production royalty is due the last day of the month next following the month in which the minerals are sold or removed from the leased lands.

\*\* (b) MINIMUM ANNUAL PRODUCTION AND MINIMUM ROYALTY - (1) Lessee shall produce on an annual basis a minimum amount of copper, nickel & assoc. mins., except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. Lessor may permit suspension of operations under the lease when marketing conditions are such that the lease cannot be operated except at a loss. (2) At the request of the lessee, made prior to initiation of the lease year, the authorized officer may allow in writing the payment of a \$3.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year. Minimum royalty payments shall be credited to production royalties for that year.

Sec. 3. REDUCTION AND SUSPENSION - In accordance with Section 39 of the Mineral Leasing Act, 30 U.S.C. 209, the lessor reserves the authority to waive, suspend or reduce rental or minimum royalty, or to reduce royalty, and reserves the authority to assent to or order the suspension of this lease.

Sec. 4. BONDS - Lessee shall maintain in the proper office a lease bond in the amount of \$ 5,000, or in lieu thereof, an acceptable statewide or nationwide bond. The authorized officer may require an increase in this amount when additional coverage is determined appropriate.

• Sec. 5. DOCUMENTS, EVIDENCE AND INSPECTION - At such times and in such form as lessor may prescribe, lessee

shall furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.

Lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of lessor, the leased premises and all surface and underground improvements, work, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.

Lessee shall either submit or provide lessor access to and copying of documents reasonably necessary to verify lessee compliance with terms and conditions of the lease.

While this lease remains in effect, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Sec. 6. DAMAGES TO PROPERTY AND CONDUCT OF OPERATIONS - Lessee shall exercise reasonable diligence, skill, and care in the operation of the property, and carry on all operations in accordance with approved methods and practices as provided in the operating regulations, having due regard for the prevention of injury to life, health or property, and of waste or damage to any water or mineral deposits.

Lessee shall not conduct exploration or operations, other than casual use, prior to receipt of necessary permits or approval of plans of operations by lessor.

Lessee shall carry on all operations in accordance with approved methods and practices as provided in the operating regulations, and the approved mining plans in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, minerals, and other resources, and to other land uses or users. Lessee shall take measures deemed necessary by lessor to accomplish the intent of this lease term. Such measures may include, but are not limited to, modification to proposed siting or design of facilities, timing of operations, and specification of interim and final reclamation procedures.

Lessor reserves to itself the right to lease, sell, or otherwise dispose of the surface or other mineral deposits in the lands and the right to continue existing uses and to authorize future uses upon or in the leased lands, including issuing leases for mineral deposits not covered hereunder or the approval of easements or rights-of-way. Lessor shall condition such uses to prevent unnecessary or unreasonable interference with rights of lessee as may be consistent with concepts of multiple use and multiple mineral development.

Sec. 7. PROTECTION OF DIVERSE INTERESTS, AND EQUAL OPPORTUNITY - Lessee shall: pay when due all taxes legally assessed and levied under the laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States; maintain a safe working environment in accordance with standard industry practices; restrict the workday to not more than 8 hours in any one day for underground workers, except in emergencies; and take measures necessary to protect the health and safety of the public. No person under the age of 16 years shall be employed in any mine below the surface. To the extent that laws of the State in which the lands are



situated are more restrictive than the provisions in this paragraph, then the State laws apply.

Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec. 8. (a) TRANSFERS - This lease may be transferred in whole or in part to any person, association or corporation qualified to hold such lease interest.

(b) RELINQUISHMENT - The lessee may relinquish in writing at any time all rights under this lease or any portion thereof as provided in the regulations. Upon lessor's acceptance of the relinquishment, lessee shall be relieved of all future obligations under the lease or the relinquished portion thereof, whichever is applicable.

Sec. 9. DELIVERY OF PREMISES, REMOVAL OF MACHINERY, EQUIPMENT, ETC. - At such time as all or portions of this lease are returned to lessor, lessee shall deliver up to lessor the land leased, underground timbering, and such other supports and structures necessary for the preservation of the mine workings on the leased premises or deposits and place all wells in condition for suspension or abandonment. Within 180 days thereof, lessee shall remove from the premises all other structures, machinery, equipment, tools, and materials that it elects to or as required by the authorized officer. Any such structures, machinery, equipment, tools, and materials remaining on the leased lands beyond 180 days, or approved extension thereof, shall become the property of the lessor, but lessee shall either remove any or all such property or shall continue to be liable for the cost of removal and disposal in the amount actually incurred by the lessor. If the surface is owned by third parties, lessor shall waive the requirement for removal, provided the third parties do not object to such

waiver. Lessee shall, prior to the termination of bond liability or at any other time when required and in accordance with all applicable laws and regulations, reclaim all lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities on the leased lands, and reclaim access roads or trails.

Sec. 10. PROCEEDINGS IN CASE OF DEFAULT - If lessee fails to comply with applicable laws, now existing regulations, or the terms, conditions and stipulations of this lease, and the noncompliance continues for 30 days after written notice thereof, this lease shall be subject to cancellation by the lessor only by judicial proceedings. This provision shall not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver shall not prevent later cancellation for the same default occurring at any other time.

Sec. 11. HEIRS AND SUCCESSORS-IN-INTEREST - Each obligation of this lease shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. INDEMNIFICATION - Lessee shall indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under this lease.

Sec. 13. SPECIAL STATUTES - This lease is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151-1175), the Clean Air Act (42 U.S.C. 1857 et. seq.), and to all other applicable laws pertaining to exploration activities, mining operations and reclamation.

#### Sec. 14. SPECIAL STIPULATIONS -

\* The terms and conditions of the production royalties remains as stated in the attached original lease agreement.

\*\* The minimum annual production and minimum royalty is \$10.00 per acre or a fraction thereof as stated in the attached original lease agreement.

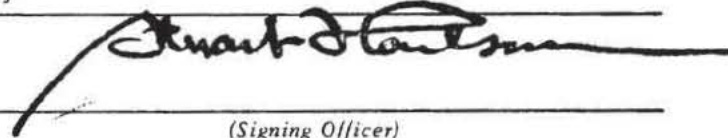
Sec. 14. SPECIAL STIPULATIONS - (Cont.)

THE UNITED STATES OF AMERICA

INGO ALLOYS INTERNATIONAL, INC.

Company or Lessee Name

By



(Signing Officer)

Deputy State Director for Mineral Resources

(Title)

JUN 27 1989

(Date)

x By 

(Signature of Lessee)

x Chief Legal Officer & Secretary

(Title)

x May 5, 1989

(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

NOTICE

The Privacy Act of 1974 and the regulations in 43 CFR 2.48(d) provides that you be furnished the following information in connection with information required under the terms of this lease.

AUTHORITY: 30 U.S.C. 181 et seq.; 43 CFR 3500.

PRINCIPAL PURPOSE: The information will be used to verify your compliance with the lease terms and in calculating royalty payments.

ROUTINE USES: (1) Evaluation of the effects of the operations on the environment. (2) Statistical reports to Congress. (3)(4) and (5) Information from the record and/or the record may be released or transferred to appropriate Federal, State or local agencies in allocating mineral revenue, for investigations of energy programs; and when relevant to civil, criminal or regulatory investigations or prosecutions, as well as routine regulatory responsibility.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of this information is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected for use in calculating royalty payments and in verification of compliance with lease terms.

Response to this request is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

Serial Number

Renewal Preference Right **LEASE**

MNES 1353

**PART I. LEASE RIGHTS GRANTED.**

This ☐ Lease ☒ Lease Renewal entered into by and between the UNITED STATES OF AMERICA, through the Bureau of Land Management, hereinafter called lessor, and (Name and Address)

INCO Alloys International, Inc.

One New York Plaza

New York, New York 10004

hereinafter called lessee, is effective (date)

**JUL 01 1989**

, for a period of ten years,

Sodium, Sulphur, Hardrock -

☒ with preferential right in the lessee to renew for successive periods of ten years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.

Potassium, Phosphate, Gilsonite -

☐ and for so long thereafter as lessee complies with the terms and conditions of this lease which are subject to readjustment at the end of each year period, unless otherwise provided by law.

Sec. 1. This lease is issued pursuant and subject to the terms and provisions of the:

☐ Mineral Leasing Act of 1920, as amended, and supplemented, 41 Stat. 437, 30 U.S.C. 181-287, hereinafter referred to as the Act;

☐ Mineral Leasing Act for Acquired Lands, Act of August 7, 1947, 61 Stat. 913, 30 U.S.C. 351-359;

☒ Reorganization Plan No. 3 of 1946, 60 Stat. 1099 and 43 U.S.C. 1201;

☐ (Other)

; and  
to the regulations and general mining orders of the Secretary of the Interior in force on the date this lease issued.

Sec. 2. Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to explore for, drill for, mine, extract, remove, beneficiate, concentrate, or otherwise process and dispose of the copper deposits nickel and associated minerals hereinafter referred to as "leased deposits," in, upon, or under the following described lands:

see attached

containing 2,254.71 acres, more or less, together with the right to construct such works, buildings, plants, structures, equipment and appliances and the right to use such on-lease rights-of-way which may be necessary and convenient in the exercise of the rights and privileges granted, subject to the conditions herein provided.

Phosphate -

☐ In accordance with Section 11 of the Act (30 U.S.C. 213), lessee may use deposits of silica, limestone, or other rock in the processing or refining of the phosphates, phosphate rock, and associated or related minerals mined from the leased lands or other lands upon payments of royalty as set forth on the attachment to this lease. (Phosphate leases only.)

## PART II. TERMS AND CONDITIONS

Sec. 1. (a) RENTAL RATE - Lessee shall pay lessor rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate indicated below:

*Sulphur, Gilsonite -*

☐ 50 cents for the first lease year and each succeeding lease year;

*Hardrock -*

☐ \$1 for the first lease year and \$1 for each succeeding lease year;

*Phosphate -*

☐ 25 cents for the first lease year, 50 cents for the second and third lease years, and \$1 for each and every lease year thereafter;

*Potassium, Sodium -*

☐ 25 cents for the first calendar year or fraction thereof, 50 cents for the second, third, fourth, and fifth calendar years respectively, and \$1 for the sixth and each succeeding calendar year; or

*Sodium, Sulphur, Asphalt, and Hardrock Renewal Leases -*

☒ \$ 1.00 for each lease year;

(b) RENTAL CREDITS - The rental for any year will be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

\* Sec. 2. (a) PRODUCTION ROYALTIES - Lessee shall pay lessor a production royalty in accordance with the attached schedule. Such production royalty is due the last day of the month next following the month in which the minerals are sold or removed from the leased lands.

\*\* (b) MINIMUM ANNUAL PRODUCTION AND MINIMUM ROYALTY - (1) Lessee shall produce, on an annual basis a minimum amount of copper, nickel & assoc. mins., except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. Lessor may permit suspension of operations under the lease when marketing conditions are such that the lease cannot be operated except at a loss. (2) At the request of the lessee, made prior to initiation of the lease year, the authorized officer may allow in writing the payment of a \$3.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year. Minimum royalty payments shall be credited to production royalties for that year.

Sec. 3. REDUCTION AND SUSPENSION - In accordance with Section 39 of the Mineral Leasing Act, 30 U.S.C. 209, the lessor reserves the authority to waive, suspend or reduce rental or minimum royalty, or to reduce royalty, and reserves the authority to assent to or order the suspension of this lease.

Sec. 4. BONDS - Lessee shall maintain in the proper office a lease bond in the amount of \$ 5,000, or in lieu thereof, an acceptable statewide or nationwide bond. The authorized officer may require an increase in this amount when additional coverage is determined appropriate.

Sec. 5. DOCUMENTS, EVIDENCE AND INSPECTION - At such times and in such form as lessor may prescribe, lessee

shall furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.

Lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of lessor, the leased premises and all surface and underground improvements, work, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.

Lessee shall either submit or provide lessor access to and copying of documents reasonably necessary to verify lessee compliance with terms and conditions of the lease.

While this lease remains in effect, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Sec. 6. DAMAGES TO PROPERTY AND CONDUCT OF OPERATIONS - Lessee shall exercise reasonable diligence, skill, and care in the operation of the property, and carry on all operations in accordance with approved methods and practices as provided in the operating regulations, having due regard for the prevention of injury to life, health or property, and of waste or damage to any water or mineral deposits.

Lessee shall not conduct exploration or operations, other than casual use, prior to receipt of necessary permits or approval of plans of operations by lessor.

Lessee shall carry on all operations in accordance with approved methods and practices as provided in the operating regulations, and the approved mining plans in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, minerals, and other resources, and to other land uses or users. Lessee shall take measures deemed necessary by lessor to accomplish the intent of this lease term. Such measures may include, but are not limited to, modification to proposed siting or design of facilities, timing of operations, and specification of interim and final reclamation procedures.

Lessor reserves to itself the right to lease, sell, or otherwise dispose of the surface or other mineral deposits in the lands and the right to continue existing uses and to authorize future uses upon or in the leased lands, including issuing leases for mineral deposits not covered hereunder or the approval of easements or rights-of-way. Lessor shall condition such uses to prevent unnecessary or unreasonable interference with rights of lessee as may be consistent with concepts of multiple use and multiple mineral development.

Sec. 7. PROTECTION OF DIVERSE INTERESTS, AND EQUAL OPPORTUNITY - Lessee shall: pay when due all taxes legally assessed and levied under the laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States; maintain a safe working environment in accordance with standard industry practices; restrict the workday to not more than 8 hours in any one day for underground workers, except in emergencies; and take measures necessary to protect the health and safety of the public. No person under the age of 16 years shall be employed in any mine below the surface. To the extent that laws of the State in which the lands are

situated are more restrictive than the provisions in this paragraph, then the State laws apply.

Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec. 8. (a) TRANSFERS - This lease may be transferred in whole or in part to any person, association or corporation qualified to hold such lease interest.

(b) RELINQUISHMENT - The lessee may relinquish in writing at any time all rights under this lease or any portion thereof as provided in the regulations. Upon lessor's acceptance of the relinquishment, lessee shall be relieved of all future obligations under the lease or the relinquished portion thereof, whichever is applicable.

Sec. 9. DELIVERY OF PREMISES, REMOVAL OF MACHINERY, EQUIPMENT, ETC. - At such time as all or portions of this lease are returned to lessor, lessee shall deliver up to lessor the land leased, underground timbering, and such other supports and structures necessary for the preservation of the mine workings on the leased premises or deposits and place all wells in condition for suspension or abandonment. Within 180 days thereof, lessee shall remove from the premises all other structures, machinery, equipment, tools, and materials that it elects to or as required by the authorized officer. Any such structures, machinery, equipment, tools, and materials remaining on the leased lands beyond 180 days, or approved extension thereof, shall become the property of the lessor, but lessee shall either remove any or all such property or shall continue to be liable for the cost of removal and disposal in the amount actually incurred by the lessor. If the surface is owned by third parties, lessor shall waive the requirement for removal, provided the third parties do not object to such

waiver. Lessee shall, prior to the termination of bond liability or at any other time when required and in accordance with all applicable laws and regulations, reclaim all lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities on the leased lands, and reclaim access roads or trails.

Sec. 10. PROCEEDINGS IN CASE OF DEFAULT - If lessee fails to comply with applicable laws, now existing regulations, or the terms, conditions and stipulations of this lease, and the noncompliance continues for 30 days after written notice thereof, this lease shall be subject to cancellation by the lessor only by judicial proceedings. This provision shall not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver shall not prevent later cancellation for the same default occurring at any other time.

Sec. 11. HEIRS AND SUCCESSORS-IN-INTEREST - Each obligation of this lease shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. INDEMNIFICATION - Lessee shall indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under this lease.

Sec. 13. SPECIAL STATUTES - This lease is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151-1175), the Clean Air Act (42 U.S.C. 1857 et. seq.), and to all other applicable laws pertaining to exploration activities, mining operations and reclamation.

Sec. 14. SPECIAL STIPULATIONS -

\* The terms and conditions of the production royalties remains as stated in the attached original lease agreement.

\*\* The minimum annual production and minimum royalty is \$10.00 per acre or a fraction thereof as stated in the attached original lease agreement.



Sec. 14. SPECIAL STIPULATIONS - (Cont.)

THE UNITED STATES OF AMERICA

INCO ALLOYS INTERNATIONAL, INC

Company or Lessee Name

By

*By David A. Wadsworth*

(Signature of Lessee)

*Chief Legal Officer & Secretary*

(Title)

*May 5, 1989*

(Date)

*[Signature]*

(Signing Officer)

Deputy State Director for Mineral Resources

(Title)

*JUN 27 1989*

(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

NOTICE

The Privacy Act of 1974 and the regulations in 43 CFR 2.48(d) provides that you be furnished the following information in connection with information required under the terms of this lease.

AUTHORITY: 30 U.S.C. 181 et seq.; 43 CFR 3500.

PRINCIPAL PURPOSE: The information will be used to verify your compliance with the lease terms and in calculating royalty payments.

ROUTINE USES: (1) Evaluation of the effects of the operations on the environment. (2) Statistical reports to Congress. (3)(4) and (5) Information from the record and/or the record may be released or transferred to appropriate Federal, State or local agencies in allocating mineral revenue, for investigations of energy programs; and when relevant to civil, criminal or regulatory investigations or prosecutions, as well as routine regulatory responsibility.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of this information is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected for use in calculating royalty payments and in verification of compliance with lease terms. Response to this request is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

Supplemental and Amended Complaint

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**EXHIBIT 2**

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

Renewal Preference Right LEASE

Serial Number

MNES 1352

PART I. LEASE RIGHTS GRANTED.

This ☐ Lease ☒ Lease Renewal entered into by and between the UNITED STATES OF AMERICA, through the Bureau of Land Management, hereinafter called lessor, and (Name and Address)

INCO Alloys International, Inc.

One New York Plaza

New York, New York 10004

hereinafter called lessee, is effective (date)

JUL 01 1989

, for a period of ten years,

Sodium, Sulphur, Hardrock -

☒ with preferential right in the lessee to renew for successive periods of ten years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.

Potassium, Phosphate, Gilsonite -

☐ and for so long thereafter as lessee complies with the terms and conditions of this lease which are subject to readjustment at the end of each year period, unless otherwise provided by law.

Sec. 1. This lease is issued pursuant and subject to the terms and provisions of the:

☐ Mineral Leasing Act of 1920, as amended, and supplemented, 41 Stat. 437, 30 U.S.C. 181-287, hereinafter referred to as the Act;

☐ Mineral Leasing Act for Acquired Lands, Act of August 7, 1947, 61 Stat. 913, 30 U.S.C. 351-359;

☒ Reorganization Plan No. 3 of 1946, 60 Stat. 1099 and 43 U.S.C. 1201;

☐ (Other)

to the regulations and general mining orders of the Secretary of the Interior in force on the date this lease issued.

Sec. 2. Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to explore for, drill for, mine, extract, remove, beneficiate, concentrate, or otherwise process and dispose of the copper deposits nickel and associated minerals hereinafter referred to as "leased deposits," in, upon, or under the following described lands:

see attached

containing 2,610.07 acres, more or less, together with the right to construct such works, buildings, plants, structures, equipment and appliances and the right to use such on-lease rights-of-way which may be necessary and convenient in the exercise of the rights and privileges granted, subject to the conditions herein provided.

Phosphate -

☐ In accordance with Section 11 of the Act (30 U.S.C. 213), lessee may use deposits of silica, limestone, or other rock in the processing or refining of the phosphates, phosphate rock, and associated or related minerals mined from the leased lands or other lands upon payments of royalty as set forth on the attachment to this lease. (Phosphate leases only.)



## PART II. TERMS AND CONDITIONS

Sec. 1. (a) RENTAL RATE - Lessee shall pay lessor rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate indicated below:

*Sulphur, Gilsonite -*

☐ 50 cents for the first lease year and each succeeding lease year;

*Hardrock -*

☐ \$1 for the first lease year and \$1 for each succeeding lease year;

*Phosphate -*

☐ 25 cents for the first lease year, 50 cents for the second and third lease years, and \$1 for each and every lease year thereafter;

*Potassium, Sodium -*

☐ 25 cents for the first calendar year or fraction thereof, 50 cents for the second, third, fourth, and fifth calendar years respectively, and \$1 for the sixth and each succeeding calendar year; or

*Sodium, Sulphur, Asphalt, and Hardrock Renewal Leases -*  
☒ \$ 1.00 for each lease year;

(b) RENTAL CREDITS - The rental for any year will be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

\* Sec. 2. (a) PRODUCTION ROYALTIES - Lessee shall pay lessor a production royalty in accordance with the attached schedule. Such production royalty is due the last day of the month next following the month in which the minerals are sold or removed from the leased lands.

\*\* (b) MINIMUM ANNUAL PRODUCTION AND MINIMUM ROYALTY - (1) Lessee shall produce on an annual basis a minimum amount of ~~8,000 lbs. of copper, nickel, or silver~~ <sup>of copper, nickel, or silver</sup>, except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. Lessor may permit suspension of operations under the lease when marketing conditions are such that the lease cannot be operated except at a loss. (2) At the request of the lessee, made prior to initiation of the lease year, the authorized officer may allow in writing the payment of a \$3.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year. Minimum royalty payments shall be credited to production royalties for that year.

Sec. 3. REDUCTION AND SUSPENSION - In accordance with Section 39 of the Mineral Leasing Act, 30 U.S.C. 209, the lessor reserves the authority to waive, suspend or reduce rental or minimum royalty, or to reduce royalty, and reserves the authority to assent to or order the suspension of this lease.

Sec. 4. BONDS - Lessee shall maintain in the proper office a lease bond in the amount of \$ 5,000.00, or in lieu thereof, an acceptable statewide or nationwide bond. The authorized officer may require an increase in this amount when additional coverage is determined appropriate.

Sec. 5. DOCUMENTS, EVIDENCE AND INSPECTION - At such times and in such form as lessor may prescribe, lessee

shall furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.

Lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of lessor, the leased premises and all surface and underground improvements, work, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.

Lessee shall either submit or provide lessor access to and copying of documents reasonably necessary to verify lessee compliance with terms and conditions of the lease.

While this lease remains in effect, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Sec. 6. DAMAGES TO PROPERTY AND CONDUCT OF OPERATIONS - Lessee shall exercise reasonable diligence, skill, and care in the operation of the property, and carry on all operations in accordance with approved methods and practices as provided in the operating regulations, having due regard for the prevention of injury to life, health or property, and of waste or damage to any water or mineral deposits.

Lessee shall not conduct exploration or operations, other than casual use, prior to receipt of necessary permits or approval of plans of operations by lessor.

Lessee shall carry on all operations in accordance with approved methods and practices as provided in the operating regulations, and the approved mining plans in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, minerals, and other resources, and to other land uses or users. Lessee shall take measures deemed necessary by lessor to accomplish the intent of this lease term. Such measures may include, but are not limited to, modification to proposed siting or design of facilities, timing of operations, and specification of interim and final reclamation procedures.

Lessor reserves to itself the right to lease, sell, or otherwise dispose of the surface or other mineral deposits in the lands and the right to continue existing uses and to authorize future uses upon or in the leased lands, including issuing leases for mineral deposits not covered hereunder or the approval of easements or rights-of-way. Lessor shall condition such uses to prevent unnecessary or unreasonable interference with rights of lessee as may be consistent with concepts of multiple use and multiple mineral development.

Sec. 7. PROTECTION OF DIVERSE INTERESTS, AND EQUAL OPPORTUNITY - Lessee shall: pay when due all taxes legally assessed and levied under the laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States; maintain a safe working environment in accordance with standard industry practices; restrict the workday to not more than 8 hours in any one day for underground workers, except in emergencies; and take measures necessary to protect the health and safety of the public. No person under the age of 16 years shall be employed in any mine below the surface. To the extent that laws of the State in which the lands are

• situated are more restrictive than the provisions in this paragraph, then the State laws apply.

Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec. 8. (a) TRANSFERS - This lease may be transferred in whole or in part to any person, association or corporation qualified to hold such lease interest.

(b) RELINQUISHMENT - The lessee may relinquish in writing at any time all rights under this lease or any portion thereof as provided in the regulations. Upon lessor's acceptance of the relinquishment, lessee shall be relieved of all future obligations under the lease or the relinquished portion thereof, whichever is applicable.

Sec. 9. DELIVERY OF PREMISES, REMOVAL OF MACHINERY, EQUIPMENT, ETC. - At such time as all or portions of this lease are returned to lessor, lessee shall deliver up to lessor the land leased, underground timbering, and such other supports and structures necessary for the preservation of the mine workings on the leased premises or deposits and place all wells in condition for suspension or abandonment. Within 180 days thereof, lessee shall remove from the premises all other structures, machinery, equipment, tools, and materials that it elects to or as required by the authorized officer. Any such structures, machinery, equipment, tools, and materials remaining on the leased lands beyond 180 days, or approved extension thereof, shall become the property of the lessor, but lessee shall either remove any or all such property or shall continue to be liable for the cost of removal and disposal in the amount actually incurred by the lessor. If the surface is owned by third parties, lessor shall waive the requirement for removal, provided the third parties do not object to such.

#### Sec. 14. SPECIAL STIPULATIONS -

\* The terms and conditions of the production royalties remains as stated in the attached original lease agreement.

\*\* The minimum annual production and minimum royalty is \$10.00 per acre or a fraction thereof as stated in the attached original lease agreement.

waiver. Lessee shall, prior to the termination of bond liability or at any other time when required and in accordance with all applicable laws and regulations, reclaim all lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities on the leased lands, and reclaim access roads or trails.

Sec. 10. PROCEEDINGS IN CASE OF DEFAULT - If lessee fails to comply with applicable laws, now existing regulations, or the terms, conditions and stipulations of this lease, and the noncompliance continues for 30 days after written notice thereof, this lease shall be subject to cancellation by the lessor only by judicial proceedings. This provision shall not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver shall not prevent later cancellation for the same default occurring at any other time.

Sec. 11. HEIRS AND SUCCESSORS-IN-INTEREST - Each obligation of this lease shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. INDEMNIFICATION - Lessee shall indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under this lease.

Sec. 13. SPECIAL STATUTES - This lease is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151-1175), the Clean Air Act (42 U.S.C. 1857 et. seq.), and to all other applicable laws pertaining to exploration activities, mining operations and reclamation.

## Sec. 14. SPECIAL STIPULATIONS - (Cont.)

THE UNITED STATES OF AMERICA

INCO ALLOYS INTERNATIONAL, INC

Company or Lessee Name

By

X By Dylan L. Anderson  
(Signature of Lessee)

X Chief legal officer & Secretary  
(Title)

X May 5, 1989  
(Date)

Stuart J. Carlson  
(Signing Officer)

Deputy State Director for Mineral Resources  
(Title)

June 27, 1989  
(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

## NOTICE

The Privacy Act of 1974 and the regulations in 43 CFR 2.48(d) provides that you be furnished the following information in connection with information required under the terms of this lease.

AUTHORITY: 30 U.S.C. 181 et seq.; 43 CFR 3500.

PRINCIPAL PURPOSE: The information will be used to verify your compliance with the lease terms and in calculating royalty payments.

ROUTINE USES: (1) Evaluation of the effects of the operations on the environment. (2) Statistical reports to Congress. (3)(4) and (5) Information from the record and/or the record may be released or transferred to appropriate Federal, State or local agencies in allocating mineral revenue, for investigations of energy programs; and when relevant to civil, criminal or regulatory investigations or prosecutions, as well as routine regulatory responsibility.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of this information is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected for use in calculating royalty payments and in verification of compliance with lease terms.

Response to this request is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

Serial Number

Renewal Preference Right **LEASE**

MNES 1353

**PART I. LEASE RIGHTS GRANTED.**

This ☐ Lease ☒ Lease Renewal entered into by and between the UNITED STATES OF AMERICA, through the Bureau of Land Management, hereinafter called lessor, and (Name and Address)

INCO Alloys International, Inc.

One New York Plaza

New York, New York 10004

hereinafter called lessee, is effective (date)

**JUL 01 1989**

, for a period of ten years,

Sodium, Sulphur, Hardrock -

☒ with preferential right in the lessee to renew for successive periods of ten years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.

Potassium, Phosphate, Gilsonite -

☐ and for so long thereafter as lessee complies with the terms and conditions of this lease which are subject to readjustment at the end of each year period, unless otherwise provided by law.

Sec. 1. This lease is issued pursuant and subject to the terms and provisions of the:

☐ Mineral Leasing Act of 1920, as amended, and supplemented, 41 Stat. 437, 30 U.S.C. 181-287, hereinafter referred to as the Act;

☐ Mineral Leasing Act for Acquired Lands, Act of August 7, 1947, 61 Stat. 913, 30 U.S.C. 351-359;

☒ Reorganization Plan No. 3 of 1946, 60 Stat. 1099 and 43 U.S.C. 1201;

☐ (Other)

; and

to the regulations and general mining orders of the Secretary of the Interior in force on the date this lease issued.

Sec. 2. Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to explore for, drill for, mine, extract, remove, beneficiate, concentrate, or otherwise process and dispose of the copper deposits nickel and associated minerals hereinafter referred to as "leased deposits," in, upon, or under the following described lands:

see attached

containing 2,254.71 acres, more or less, together with the right to construct such works, buildings, plants, structures, equipment and appliances and the right to use such on-lease rights-of-way which may be necessary and convenient in the exercise of the rights and privileges granted, subject to the conditions herein provided.

Phosphate -

☐ In accordance with Section 11 of the Act (30 U.S.C. 213), lessee may use deposits of silica, limestone, or other rock in the processing or refining of the phosphates, phosphate rock, and associated or related minerals mined from the leased lands or other lands upon payments of royalty as set forth on the attachment to this lease. (Phosphate leases only.)

## PART II. TERMS AND CONDITIONS

Sec. 1. (a) RENTAL RATE - Lessee shall pay lessor rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate indicated below:

*Sulphur, Gilsonite -*

☐ 50 cents for the first lease year and each succeeding lease year;

*Hardrock -*

☐ \$1 for the first lease year and \$1 for each succeeding lease year;

*Phosphate -*

☐ 25 cents for the first lease year, 50 cents for the second and third lease years, and \$1 for each and every lease year thereafter;

*Potassium, Sodium -*

☐ 25 cents for the first calendar year or fraction thereof, 50 cents for the second, third, fourth, and fifth calendar years respectively, and \$1 for the sixth and each succeeding calendar year; or

*Sodium, Sulphur, Asphalt, and Hardrock Renewal Leases -*

☒ \$ 1.00 for each lease year;

(b) RENTAL CREDITS - The rental for any year will be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

\* Sec. 2. (a) PRODUCTION ROYALTIES - Lessee shall pay lessor a production royalty in accordance with the attached schedule. Such production royalty is due the last day of the month next following the month in which the minerals are sold or removed from the leased lands.

\*\* (b) MINIMUM ANNUAL PRODUCTION AND MINIMUM ROYALTY - (1) Lessee shall produce, on an annual basis a minimum amount of copper, nickel, & assoc. mins., except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. Lessor may permit suspension of operations under the lease when marketing conditions are such that the lease cannot be operated except at a loss. (2) At the request of the lessee, made prior to initiation of the lease year, the authorized officer may allow in writing the payment of a \$3.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year. Minimum royalty payments shall be credited to production royalties for that year.

Sec. 3. REDUCTION AND SUSPENSION - In accordance with Section 39 of the Mineral Leasing Act, 30 U.S.C. 209, the lessor reserves the authority to waive, suspend or reduce rental or minimum royalty, or to reduce royalty, and reserves the authority to assent to or order the suspension of this lease.

Sec. 4. BONDS - Lessee shall maintain in the proper office a lease bond in the amount of \$ 5,000, or in lieu thereof, an acceptable statewide or nationwide bond. The authorized officer may require an increase in this amount when additional coverage is determined appropriate.

Sec. 5. DOCUMENTS, EVIDENCE AND INSPECTION - At such times and in such form as lessor may prescribe, lessee

shall furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.

Lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of lessor, the leased premises and all surface and underground improvements, work, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.

Lessee shall either submit or provide lessor access to and copying of documents reasonably necessary to verify lessee compliance with terms and conditions of the lease.

While this lease remains in effect, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Sec. 6. DAMAGES TO PROPERTY AND CONDUCT OF OPERATIONS - Lessee shall exercise reasonable diligence, skill, and care in the operation of the property, and carry on all operations in accordance with approved methods and practices as provided in the operating regulations, having due regard for the prevention of injury to life, health or property, and of waste or damage to any water or mineral deposits.

Lessee shall not conduct exploration or operations, other than casual use, prior to receipt of necessary permits or approval of plans of operations by lessor.

Lessee shall carry on all operations in accordance with approved methods and practices as provided in the operating regulations, and the approved mining plans in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, minerals, and other resources, and to other land uses or users. Lessee shall take measures deemed necessary by lessor to accomplish the intent of this lease term. Such measures may include, but are not limited to, modification to proposed siting or design of facilities, timing of operations, and specification of interim and final reclamation procedures.

Lessor reserves to itself the right to lease, sell, or otherwise dispose of the surface or other mineral deposits in the lands and the right to continue existing uses and to authorize future uses upon or in the leased lands, including issuing leases for mineral deposits not covered hereunder or the approval of easements or rights-of-way. Lessor shall condition such uses to prevent unnecessary or unreasonable interference with rights of lessee as may be consistent with concepts of multiple use and multiple mineral development.

Sec. 7. PROTECTION OF DIVERSE INTERESTS, AND EQUAL OPPORTUNITY - Lessee shall: pay when due all taxes legally assessed and levied under the laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States; maintain a safe working environment in accordance with standard industry practices; restrict the workday to not more than 8 hours in any one day for underground workers, except in emergencies; and take measures necessary to protect the health and safety of the public. No person under the age of 16 years shall be employed in any mine below the surface. To the extent that laws of the State in which the lands are

situated are more restrictive than the provisions in this paragraph, then the State laws apply.

Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec. 8. (a) TRANSFERS - This lease may be transferred in whole or in part to any person, association or corporation qualified to hold such lease interest.

(b) RELINQUISHMENT - The lessee may relinquish in writing at any time all rights under this lease or any portion thereof as provided in the regulations. Upon lessor's acceptance of the relinquishment, lessee shall be relieved of all future obligations under the lease or the relinquished portion thereof, whichever is applicable.

Sec. 9. DELIVERY OF PREMISES, REMOVAL OF MACHINERY, EQUIPMENT, ETC. - At such time as all or portions of this lease are returned to lessor, lessee shall deliver up to lessor the land leased, underground timbering, and such other supports and structures necessary for the preservation of the mine workings on the leased premises or deposits and place all wells in condition for suspension or abandonment. Within 180 days thereof, lessee shall remove from the premises all other structures, machinery, equipment, tools, and materials that it elects to or as required by the authorized officer. Any such structures, machinery, equipment, tools, and materials remaining on the leased lands beyond 180 days, or approved extension thereof, shall become the property of the lessor, but lessee shall either remove any or all such property or shall continue to be liable for the cost of removal and disposal in the amount actually incurred by the lessor. If the surface is owned by third parties, lessor shall waive the requirement for removal, provided the third parties do not object to such

waiver. Lessee shall, prior to the termination of bond liability or at any other time when required and in accordance with all applicable laws and regulations, reclaim all lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities on the leased lands, and reclaim access roads or trails.

Sec. 10. PROCEEDINGS IN CASE OF DEFAULT - If lessee fails to comply with applicable laws, now existing regulations, or the terms, conditions and stipulations of this lease, and the noncompliance continues for 30 days after written notice thereof, this lease shall be subject to cancellation by the lessor only by judicial proceedings. This provision shall not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver shall not prevent later cancellation for the same default occurring at any other time.

Sec. 11. HEIRS AND SUCCESSORS-IN-INTEREST - Each obligation of this lease shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. INDEMNIFICATION - Lessee shall indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under this lease.

Sec. 13. SPECIAL STATUTES - This lease is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151-1175), the Clean Air Act (42 U.S.C. 1857 et. seq.), and to all other applicable laws pertaining to exploration activities, mining operations and reclamation.

Sec. 14. SPECIAL STIPULATIONS -

\* The terms and conditions of the production royalties remains as stated in the attached original lease agreement.

\*\* The minimum annual production and minimum royalty is \$10.00 per acre or a fraction thereof as stated in the attached original lease agreement.



## Sec. 14. SPECIAL STIPULATIONS - (Cont.)

THE UNITED STATES OF AMERICA

INCO ALLOTS INTERNATIONAL, INC

Company or Lessee Name

By *Dylan L. Wadsworth*

(Signature of Lessee)

Chief Legal Officer &amp; Secretary

(Title)

May 5, 1989

(Date)

By

*Edward J. Hartman*

(Signing Officer)

Deputy State Director for Mineral Resources

(Title)

JUN 27 1989

(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

## NOTICE

The Privacy Act of 1974 and the regulations in 43 CFR 2.48(d) provides that you be furnished the following information in connection with information required under the terms of this lease.

AUTHORITY: 30 U.S.C. 181 et seq.; 43 CFR 3500.

PRINCIPAL PURPOSE: The information will be used to verify your compliance with the lease terms and in calculating royalty payments.

ROUTINE USES: (1) Evaluation of the effects of the operations on the environment. (2) Statistical reports to Congress. (3)(4) and (5) Information from the record and/or the record may be released or transferred to appropriate Federal, State or local agencies in allocating mineral revenue, for investigations of energy programs; and when relevant to civil, criminal or regulatory investigations or prosecutions, as well as routine regulatory responsibility.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of this information is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected for use in calculating royalty payments and in verification of compliance with lease terms. Response to this request is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.



IN REPLY REFER TO:

# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Milwaukee District Office  
Division of Solid Minerals  
901 Pine Street  
Rolla, Missouri 65401

DSM:JPR

3500

MNES 1352

MNES 1353

April 12, 1999

### Memorandum

To: State Director (932.34)

From: Assistant Field Manager for Solid Minerals, Rolla

Subject: Renewal of Preference Right Leases MNES-1352 and MNES-1353

By memorandum received April 5, 1999, you requested our recommendation on the subject lease renewals.

We have no objection to Preference Right Leases MNES-1352 and MNES-1353 being renewed for ten years, as stipulated within the lease language.

*Vincent N. Vogt*





United States  
Department of  
Agriculture

Forest  
Service

Eastern Region



310 West Wisconsin Ave.  
Suite 580  
Milwaukee, WI 53203

File Code: 2820-2  
Route To:

Date: **JUL 18 2003**

Subject: Renewal of Preference Right Leases MNES 1352 and MNES 1353

To: Director, Eastern States Office, Bureau of Land Management

The Forest Service has no objection to the renewal of the above preference right leases.

The terms, conditions and stipulations have been reviewed, and it has been determined that they are sufficient to protect the resources of the United States.

Any and all operations are subject to the Forest Plan and its amendments, and the approval of an operating plan by the authorized officer. In addition, any and all operations will be subject to an analysis under the National Environmental Policy Act prior to the commencement of any operations.

RANDY MOORE  
Regional Forester

cc:

Paul Stockinger  
Randy Rabideaux  
Stuart Behling  
Cleo B Ashworth  
Tim Best  
John Romito

BUREAU OF LAND MANAGEMENT  
DIVISION OF SOLID MINERALS

JUL 23 2003

ROLLA, MISSOURI 65401



is your RETURN ADDRESS completed on the reverse side:

**SENDER:**

- ☐ Complete items 1 and/or 2 for additional services.  
Complete items 3, 4a, and 4b.  
☐ Print your name and address on the reverse of this form so that we can return this card to you.  
☐ Attach this form to the front of the mailpiece, or on the back if space does not permit.  
☐ Write "Return Receipt Requested" on the mailpiece below the article number.  
☐ The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address  
2. ☐ Restricted Delivery

3. Article Addressed to:

AMERICAN COPPER  
+ NICKEL CO  
922 19th ST  
GOLDEN CO 80401 MNES  
1352  
1353  
ADDL REQR PRL RENEW

4a. Article Number

7000 0600 0027 49727517

4b. Service Type

- ☐ Registered ☒ Certified  
☐ Express Mail ☐ Insured  
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

5. Received By: (Print Name)

JOY K. MOSELEY

6. Signature (Addressee or Agent)

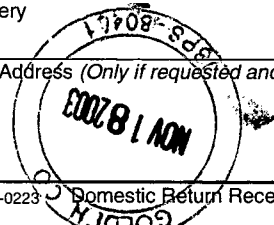
JOY K. MOSELEY

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1994

102595-99-B-0223 Domestic Return Receipt

Thank you for using Return Receipt Service.



UNITED STATES POSTAL SERVICE

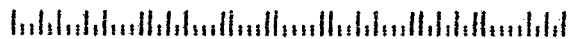


First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Print your name, address, and ZIP Code in this box. •

**Bureau of Land Management  
Eastern States  
7450 Boston Boulevard  
Springfield, VA 22153**

31



3500(932.34)TDB  
MNES 1352  
MNES 1353

CERTIFIED NO. 7000 0600 0027 4972 7517

NOV 12 2003

DECISION

American Copper and Nickel Co.	:	Hardrock
922 19 <sup>th</sup> Street	:	Preference Right Leases
Golden, Colorado 80401	:	

Additional Requirements to be Met

We received your renewal applications for the subject Preference Right Leases. The Bureau of Land Management has recommended that these leases be renewed. Additional requirements must be met in order to continue processing your applications for renewal.

The enclosed Preference Right Lease forms must be signed by an authorized officer of American Copper and Nickel Company and returned to this office.

You have thirty days upon receipt of this decision to return the above documents. If additional time is needed to do so, a written request for an extension of time will be considered. If you have questions regarding the above, do not hesitate to call Timothy D. Best at (703) 440-1527.

**Ida V. Doup**

Ida V. Doup  
Chief, Branch of Use Authorization  
Division of Resources Planning,  
Use and Protection

Enclosure (8pp)

Bcc: 930 RF:MFO/Rolla:FS-9  
930:RF:TDBest:db:10/27/2003:1527:(ADDLRQMT-PREF-RGT-LEASE)

M-

Memorandum

To: Director, Bureau of Land Management

From: Solicitor

Subject: Reversal of M-37036, "Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-01353)"

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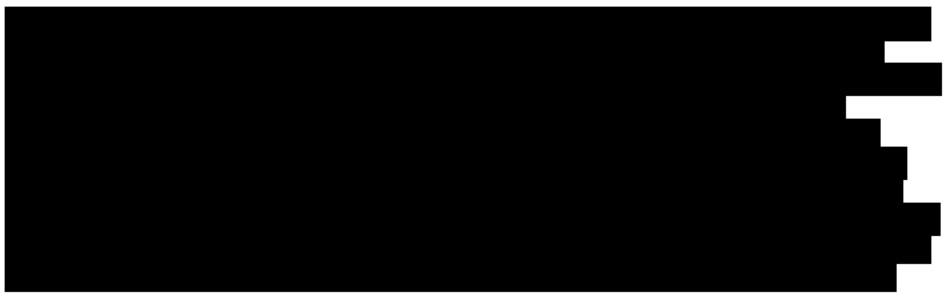
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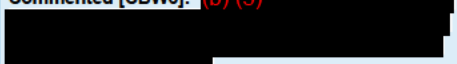
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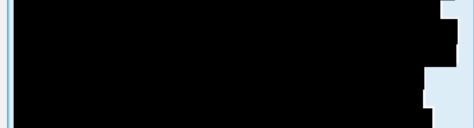




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# United States Department of the Interior

## OFFICE OF THE SOLICITOR

1849 C STREET N.W.  
WASHINGTON, DC 20240

M-37036

**MAR - 8 2016**

### Memorandum

To: Director, Bureau of Land Management

From: Solicitor

Subject: Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-01353)

The Bureau of Land Management (BLM) has asked whether it has the discretion to grant or deny Twin Metals Minnesota's pending application for renewal of two hardrock preference right leases in northern Minnesota.<sup>1</sup> I conclude that Twin Metals Minnesota does not have a non-discretionary right to renewal, but rather the BLM has discretion to grant or deny the pending renewal application.

### Background

On October 21, 2012, Twin Metals Minnesota (TMM) submitted an application to renew two preference right leases (MNES-01352 and MNES-01353) for lands that are located near the southern boundary of the Boundary Waters Canoe Area Wilderness in northern Minnesota.<sup>2</sup>

The two leases at issue are located on acquired Weeks Act lands, as well as National Forest System lands reserved from the public domain and managed by the United States Forest Service. The Secretary's authority, delegated to the BLM, for mineral disposition on the acquired lands is in section 402 of Reorganization Plan No. 3 of 1946, 60 Stat. 1097, 1099-1100, and 16 U.S.C. § 520, which governs mineral disposition on Weeks Act lands. The Secretary's authority, delegated to the BLM, for mineral disposition on reserved National Forest System lands in Minnesota is in 16 U.S.C. § 508b.

The BLM originally awarded the leases on June 1, 1966, for a primary term of twenty years, with the possibility of three ten-year renewals.<sup>3</sup> On May 14, 1986, the lessee timely applied for a renewal.<sup>4</sup> After receiving legal advice from the Office of the Solicitor that the lease terms allowed for a renewal, the BLM granted a renewal of the leases on July 1, 1989, for a period of

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<sup>1</sup> This memorandum does not address issues related to National Environmental Policy Act compliance or any other legal issues surrounding these leases.

<sup>2</sup> The Chippewa in Minnesota have hunting, fishing, and other usufructuary rights in the northeast portion of the state of Minnesota under the 1854 Treaty of LaPointe. Treaty with the Chippewa, 10 Stat. 1109 (1854).

<sup>3</sup> See 1966 leases §§ 1(a), 5.

<sup>4</sup> The regulations at 43 C.F.R. § 3522.1-1 (1985) state that renewal applications "must be filed in the appropriate land office within 90 days prior to the expiration of the lease term." The lessee filed an application for extension of the term of the leases on May 14, 1986—30 days before the end of the primary twenty-year term on June 14, 1986, which was "within 90 days" of the lease expiration. Consequently, the renewal application was timely filed.

ten years.<sup>5</sup> TMM timely applied for a second renewal on March 15, 1999. The BLM renewed the leases on January 1, 2004.<sup>6</sup> The 2004 leases state that they are for a period of ten years, “with preferential right in the lessee to renew for successive periods of 10 years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.” On October 21, 2012, TMM timely applied to renew the leases once more.<sup>7</sup> TMM has been conducting exploration activities on the leaseholds based on the 2004 leases while the BLM considers TMM’s 2012 renewal application.

Under the original 1966 lease terms, as discussed more fully below, the lessee was required to commence production within the twenty-year primary term to qualify for three renewals of right. The leases provided that if there was no production at the end of the primary term, the leases would end unless the Secretary granted a lease renewal to extend the time to commence production.<sup>8</sup>

Although there has been no production, the operator held the leases under production waivers for five years and then through payment of minimum royalties in lieu of production payments for the rest of the time, consistent with the provisions of the 1966 leases that were incorporated by reference in the 2004 leases. Those provisions stated that, beginning after the tenth year of the primary term, the lessee is required to mine a quantity of minerals such that the royalties would be equal to \$5 per annum per acre for the primary term and \$10 per annum per acre during each renewal or, in lieu of that production, pay royalties equal to the minimum royalty. *See* 1966 leases § 2(c) (incorporated into section 14 of the 2004 leases). Section 2(c) of the 1966 leases allowed the lessor to waive, reduce, or suspend the minimum royalty payment for reasonable periods of time in the interest of conservation or when such action does not adversely affect the interest of the United States in accordance with 43 C.F.R. § 3222.6-2. *Id.*

According to the BLM’s records, the BLM relied on section 2(c) of the 1966 leases to grant individual waivers of production and minimum royalties for each of the first five lease years after the tenth year of the leases, beginning on June 1, 1976, and ending May 31, 1981, while the State of Minnesota was conducting environmental studies on the proposed mining operations,

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<sup>5</sup> The three-year time period between the date on which the lessee filed for the first ten-year lease renewal and the date on which the lease renewal was approved appears to have been due to BLM’s consideration of the lessee’s minimum royalty waiver request, coordination efforts between the United State Forest Service and the BLM regarding the Forest Service approval for the renewals, and the BLM’s consideration regarding the terms of the lease renewal.

<sup>6</sup> The lessee’s application for a second renewal on March 15, 1999 was 109 days before the end of the first lease renewal on July 1, 1999. The regulations in force in 1999 state that “[a]n application for lease renewal shall be filed at least 90 days prior to the expiration of the lease term.” 43 C.F.R. § 3528.1 (1998). Consequently, the 1999 renewal application was timely filed. The time period between the lessee’s filing of the second renewal application in March 1999 and the BLM’s approval of the lease renewal in January 2004 appears to have been due to coordination efforts between the United States Forest Service and the BLM, as well as the BLM’s internal review process.

<sup>7</sup> The 2012 renewal application was submitted 438 days before the end of the second renewal on January 1, 2014. The timing requirements for filing a renewal application in the current regulations are the same as those in the regulations that were in force in 1999. *Id.* § 3511.27 (2015). Consequently, the 2012 application was timely filed.

<sup>8</sup> Section 5 of the 1966 leases contains definite conditions for allowing such an extension, i.e., in the interest of conservation or upon a satisfactory showing by the lessee that the lease cannot be successfully operated at a profit or for other reasons.

which prevented INCO Alloys International, Inc. (TMM's predecessor in interest at the time of BLM's waiver decision), from developing the leases.<sup>9</sup>

The BLM records show that INCO filed another production and minimum royalty waiver request on June 26, 1985, for the period of July 1, 1981, to June 30, 1986. In response, the BLM issued a decision on January 28, 1987, finding that Minnesota had completed its environmental studies in 1979 and that INCO had not filed any mining applications or royalty waiver applications since 1981. The decision stated that "there is no evidence that INCO International is diligently working towards the development of these leases." Based on the BLM's conclusion that INCO had not met the obligations of the leases, the agency denied the production and royalty waiver request. The decision also notified the lessee that all delinquent payments were due before the BLM could process the first lease renewals at that time.<sup>10</sup> Although the BLM's records show that INCO failed to timely pay the annual rentals and minimum royalties in lieu of production for the lease years from June 1, 1981, to May 31, 1985 (a four-year period), once INCO received notice from the BLM about the delinquency, INCO paid the fees for all four years. Consequently, the royalty payment records of the Office of Natural Resources Revenue (ONRR) show that TMM and its predecessors paid the minimum royalties in lieu of production for each of the delinquent years—1981 to 1985. The ONRR records also show that TMM paid the minimum royalty in lieu of production payments from 1986 to the present.

In preparing to respond to the 1985 royalty waiver request, the BLM sought legal advice from the Solicitor's Office, which led to a 1986 legal memorandum regarding the use of one of the three renewals identified in section 5 of the 1966 leases to extend the time to commence production. This 1986 Associate Solicitor's Opinion is discussed below in this memorandum.<sup>11</sup>

As to the rental payments, the regulations in effect before 1986 provided that the "rental paid for any year shall be credited against any royalties for that year." 43 C.F.R. § 3503.3-1(b)(5) (1985). Beginning in 1999, the regulations have provided that the Minerals Management Service (now ONRR) "will credit your lease rental for any year against the first production royalties or minimum royalties . . . as the royalties accrue under the lease during that year." *Id.* § 3504.16(e) (2014). The ONRR records show that TMM has paid the rentals and those payments have been recouped for payment of a portion of the minimum royalty payments.

#### Relevant Lease Provisions

Three provisions in the 2004 leases are pertinent to whether TMM has a non-discretionary right to renewal:

##### Part I. Lease Rights Granted:

This Lease Renewal entered into by and between the United States of America, through the Bureau of Land Management, hereinafter called lessor, and American Copper &

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<sup>9</sup> These annual waivers, beginning in June 1976 and ending in May 1981, served to waive the production and minimum royalty requirements of the leases for that time period. The notification letters that BLM sent to the lessee for each of these waivers state that a waiver of production and minimum royalty requirements is granted and do not state that the lease term is being extended for the period of the suspension.

<sup>10</sup> As noted above, the lessee applied for its first lease renewal in May 1986. Under the 1966 lease terms, the twenty-year primary term was due to expire in June 1986.

<sup>11</sup> See *infra* p. 12.

Nickel Company, 922 19<sup>th</sup> Street, Golden, Colorado, 80401, hereinafter called lessee, is effective Jan-1 2004, for a period of 10 years, *Sodium, Sulphur, Hardrock* – with preferential right in the lessee to renew for successive periods of 10 years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.

Part I, Section 2:

Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to explore for, drill for, mine, extract, remove, beneficiate, concentrate, or otherwise process and dispose of the copper deposits nickel & associated minerals hereinafter referred to as “leased deposits,” in, upon, or under the following described lands: . . . .

Part II, Section 14. Special Stipulations:

\* The terms and conditions of the production royalties remains as stated in the attached original lease agreement [referring to the 1966 lease].

\*\* The minimum annual production and minimum royalty is \$10.00 per acre or a fraction thereof as stated in the attached original lease agreement [referring to the 1966 lease].

Because the provisions of the 2004 leases govern for the reasons set forth below, the renewal provisions of the 1966 leases are not applicable. Nevertheless, to provide a comprehensive analysis, the renewal provisions of the 1966 leases are discussed in the analysis that follows.

The three relevant provisions in the 1966 leases are:

Introductory clause:

This lease entered into . . . between the United States of America, as Lessor, through the Bureau of Land Management, and [TMM's predecessor], as Lessee, pursuant to the authority set out in, and subject to, Section 402 of the President's Reorganization Plan No. 3 of 1946, 60 Stat. 1099, and the Act of June 30, 1950, 64 Stat. 311, and to all regulations of the Secretary of the Interior now in force when not inconsistent with any of the provisions herein.

Section 1(a):

Rights of Lessee. In consideration of the rents and royalties to be paid and conditions and covenants to be observed as herein set forth the Lessor grants to the Lessee, subject to all privileges and uses heretofore duly authorized and prior valid claims, the exclusive right to mine, remove, and dispose of all the copper and/or nickel minerals and associated minerals . . . in, upon, or under [the described lands] . . . together with the right to construct and maintain thereon such structures and other facilities as may be necessary or convenient for the mining, preparation, and removal of said minerals, for a period of twenty (20) years with a right in the Lessee to renew the same for successive

periods of ten (10) years each in accordance with regulation 43 C.F.R. § 3221.4(f) and the provisions of this lease.

#### Section 5:

Renewal Terms. The Lessor shall have the right to reasonably readjust and fix royalties payable hereunder at the end of the primary term of this lease and thereafter at the end of each successive renewal thereof unless otherwise provided by the law at the time of the expiration of any such period, and to readjust other terms and conditions of the lease, including the revision of or imposition of stipulations for the protection of the surface of the land as may be required by the agency having jurisdiction thereof; provided, however, that the Lessee shall have the right to three successive ten-year renewals of this lease with any readjustment in the royalties payable hereunder limited to that hereinafter provided and with no readjustment of any of the other terms and conditions of this lease unless at the end of the primary term of this lease the Lessee shall not have begun production, either hereunder or under the companion lease granted to the Lessee this day. The Secretary of the Interior may grant extensions of time for commencement of production in the interest of conservation or upon a satisfactory showing by the Lessee that the lease cannot be successfully operated at a profit or for other reasons, and the Lessee shall be entitled to renewal as herein provided without readjustment except of royalties payable hereunder if at the end of the primary or renewal period such an extension shall be in effect, but the Lessee shall not be entitled to subsequent such renewals unless it shall have begun production within the extended time. If the Lessee shall be entitled to renewal without readjustment except of royalties payable hereunder, the Secretary of the Interior may in his discretion increase the royalty rate prescribed in subsection (b) of Section 2 up to, but not exceeding (i) 5% during the first ten-year renewal period, (ii) 6% during the second ten-year renewal period, and (iii) 7% during the third ten-year renewal period. The extent of readjustment of royalty, if any to be made under this section shall be determined prior to the commencement of the renewal period.

#### Analysis

The renewal rights of TMM are governed by the applicable provisions of leases MNES 01352 and MNES 01353. At this time, the 2004 renewal leases are in effect, and they use the BLM's standard renewal language that has been in place since the 1980s. In particular, the 2004 lease renewal terms grant the "preferential right in the lessee to renew for successive periods of ten years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period." The Department has consistently interpreted this provision as not entitling the lessee to an automatic right of renewal: "This *preferential* right of renewal does not *entitle* the lessee to renewal of the lease but 'gives the renewal lease applicant the legal right to be preferred against other parties, should the Secretary, in the exercise of his discretion, decide to continue leasing.'" *Gen. Chem. (Soda Ash) Partners*, 176 IBLA 1, 3 (2008) (emphasis in original) (quoting *Sodium Lease Renewals*, M-36943, 89 Interior Dec. 173, 178 (1982) (1982 Solicitor's Opinion)). The Interior Board of Land Appeals (IBLA) noted further that the "Secretary may exercise his discretionary authority in renewing a lease in the same manner as in issuing an initial lease." *Id.*

In reaching this conclusion, I have carefully considered TMM's contention that the terms of the 1966 leases govern and require the BLM to renew the leases for a third ten-year term. As discussed below, I have concluded that the terms of the 2004 leases govern and that, in any event, the renewal provisions of the 1966 leases give the BLM discretion regarding whether to renew the leases.

The 2004 leases are each complete, integrated documents that contain all necessary lease terms and are duly signed by the lessee and lessor. The degree to which the original 1966 leases continue in effect are specifically described in the 2004 leases, with two special stipulations that incorporate by reference only two provisions from the 1966 leases. 2004 leases § 14. The first stipulation states that the "terms and conditions of the production royalties remains as stated in the attached original lease agreement." The second states that the "minimum annual production and minimum royalty is \$10.00 per acre or fraction thereof as stated in the attached original lease agreement." Neither of these imported provisions includes the lease renewal provisions of the 1966 leases. Consequently, since at least the time that the BLM and the lessee signed the 2004 lease renewals, the renewal provisions of the 1966 leases have no longer applied and the only renewal terms are those described in the 2004 leases, as quoted in the previous paragraph. Based on that well understood and unambiguous renewal language, the BLM has the same discretionary authority in considering whether to renew the 2004 leases as it had in issuing the initial 1966 leases.

In a recent memorandum to me from TMM's legal counsel,<sup>12</sup> TMM asks the BLM to ignore the plain renewal terms of the 2004 leases and instead apply the renewal provisions of the 1966 leases. TMM relies on extrinsic evidence, placing heavy reliance on the circumstances leading up to the earlier 1989 renewal, which TMM asserts provide evidence that the BLM intended to simply renew the leases under the exact same terms of the 1966 leases. TMM further asserts that the 2004 renewal, because it was executed using the same forms, must also have intended to renew the 1966 leases without any change in terms.

As explained below in the discussion of the 1966 lease terms, the 1989 and 2004 renewals differ from each other because the BLM's discretion was limited in 1989 but not in 2004. In particular, the 1989 renewal served as a one-time extension of time for commencement of production, as authorized under section 5 of the 1966 leases. But section 5 also states that if an extension is granted, the renewal must be on unaltered terms (other than royalty). Accordingly, under section 5 of the 1966 leases, the 1989 renewal was effectively a ten-year extension of the 1966 lease terms, and the use of standard renewal forms in 1989 could have no effect other than to extend the leases for ten years to allow for commencement of production. But because no production commenced during that extension, TMM was not entitled to any subsequent production extensions or renewals under the 1966 lease terms, so the BLM had discretion in 2004 over both whether to renew and the terms of any such renewal. The executed renewal in 2004 therefore has operative effect, and the plain language of the 2004 leases actually executed by the parties must be given effect. There is nothing in the duly executed 2004 leases that states that the 1966 terms somehow govern over the terms expressly set out in the 2004 leases.

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<sup>12</sup> Memorandum from I. Daniel Colton, Partner, Dorsey & Whitney LLP, received under a cover letter dated January 26, 2016, to me from Kevin L. Baker, Director, Legal Affairs, Twin Metals Minnesota, LLC.



TMM's reliance on extrinsic evidence to attempt to negate the 2004 lease terms does not comply with the law of contracts. In the absence of ambiguity in the relevant lease provision, it is improper to rely on extrinsic evidence. *See Coast Fed. Bank, FSB v. United States*, 323 F.3d 1035, 1040 (Fed. Cir. 2006) (en banc) ("If the provisions are clear and unambiguous, they must be given their plain and ordinary meaning, and we may not resort to extrinsic evidence to interpret them." (internal quotation marks and citation omitted)); *see also Shell Oil Co. v. United States*, 751 F.3d 1282, 1295 (Fed. Cir. 2014) (improper for government to rely on extrinsic evidence when contract provision is unambiguous); *Thoman v. Bureau of Land Mgmt. (on recon.)*, 155 IBLA 266, 267 (2001) ("If the contract language is clear and unambiguous, the terms of the agreement are given plain meaning and the intent of the parties and the interpretation of the agreement will be determined from the four corners of the document alone." (internal citations omitted)). Under this objective law of contracts, the subjective intent of the parties is not relevant unless there is fraud, duress, or mutual mistake, none of which is alleged by TMM. *See Armenian Assembly of Am., Inc. v. Cafesjian*, 758 F.3d 265, 278 (D.C. Cir. 2014) ("[T]he 'objective' law of contracts . . . generally means that 'the written language embodying the terms of an agreement will govern the rights and liabilities of the parties, [regardless] of the intent of the parties at the time they entered into the contract, unless the written language is not susceptible of a clear and definite undertaking, or unless there is fraud, duress, or mutual mistake.'" (alteration in original) (citations omitted)).

In this case, there is nothing ambiguous with the renewal provision contained in the 2004 leases: there is no conflicting renewal provision referenced elsewhere in the 2004 leases and the provision has a longstanding and well established meaning. While TMM has asserted that the "preferential right" to renew is ambiguous because it is susceptible of more than one meaning, that argument is without merit.<sup>13</sup> TMM misinterprets the 1982 Solicitor's Opinion, which held that the preference right to renew "gives the renewal lease applicant the legal right to be preferred against other parties should the Secretary, in the proper exercise of his discretion, decide to continue leasing." 1982 Solicitor's Opinion, 89 Interior Dec. at 178. In reaching this conclusion, the Solicitor included a discussion of the meaning of "preference right leases." That discussion focused on the rights gained in the *initial* leasing decision, and distinguished between "entitlement" leases, which are leases to which an applicant is by statute entitled to receive if it meets statutory criteria, and true "preference right leases," which are issued only if the Secretary decides to lease. *See id.* Based on this discussion, TMM asserts it is ambiguous whether its leases are entitlement leases or preference right leases. Even if this distinction altered renewal rights, which is an issue that does not need to be addressed for purposes of this memorandum, there is no ambiguity in this case. Neither of the statutory authorities under which the leases are issued—section 402 of Reorganization Plan No. 3 of 1946, 60 Stat. 1097, 1099-1100, and 16 U.S.C. § 508b—creates an entitlement to a lease or otherwise mandates the issuance of leases. To the contrary, both authorities expressly condition leasing on surface owner consent (in this instance the discretion of the Forest Service) and thus are discretionary. In short, there is no ambiguity, and the renewal provisions in the 2004 leases provide the BLM with discretion to decide whether to renew the leases.

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<sup>13</sup> A lease is not ambiguous merely because the parties disagree on the correct interpretation. *Thoman*, 155 IBLA at 267 (citing *Pollock v. Fed. Deposit Ins. Corp.*, 17 F.3d 798, 803 (5th Cir. 1994); *Stichting Mayflower Recreational Fonds v. Newpark Res., Inc.*, 917 F.2d 1239, 1247 (10th Cir. 1990)).

Finally, even if the 1966 lease renewal terms were in effect, they do not prohibit the BLM from exercising its discretion to decide whether to renew the leases. Section 1(a) of the 1966 leases granted to the lessee “the exclusive right to mine, remove, and dispose of all the copper and/or nickel minerals and associated minerals . . . .” It also provided that renewal of the leases beyond the primary term is subject to 43 C.F.R. § 3221.4(f) (1966) and the provisions of the lease. Section 3221.4(f) provides that the lessee “will be granted a right of renewal for successive periods, not exceeding 10 years each, under such reasonable terms and conditions as the Secretary of the Interior may prescribe, including the revision of or imposition of stipulations for the protection of the surface of the land as may be required by the agency having jurisdiction thereover.” Based on this regulation, the BLM included a conditional renewal provision in section 5 of the 1966 leases.

Section 5 of the 1966 leases describes both the conditions with which the lessee must comply to establish a right to renew the lease and the limitations on revisions to the lease terms when the lessee does have a right to renewal:

**Renewal Terms.** The Lessor shall have the right to reasonably readjust and fix royalties payable hereunder at the end of the primary term of this lease and thereafter at the end of each successive renewal thereof unless otherwise provided by the law at the time of the expiration of any such period, and to readjust other terms and conditions of the lease, including the revision of or imposition of stipulations for the protection of the surface of the land as may be required by the agency having jurisdiction thereover; **provided, however, that the Lessee shall have the right to three successive ten-year renewals of this lease with any readjustment in the royalties payable hereunder limited to that hereinafter provided and with no readjustment of any of the other terms and conditions of this lease unless at the end of the primary term of this lease the Lessee shall not have begun production, either hereunder or under the companion lease granted to the Lessee this day. The Secretary of the Interior may grant extensions of time for commencement of production in the interest of conservation or upon a satisfactory showing by the Lessee that the lease cannot be successfully operated at a profit or for other reasons, and the Lessee shall be entitled to renewal as herein provided without readjustment except of royalties payable hereunder if at the end of the primary or renewal period such an extension shall be in effect, but the Lessee shall not be entitled to subsequent such renewals unless it shall have begun production within the extended time.** *If the Lessee shall be entitled to renewal without readjustment except of royalties payable hereunder, the Secretary of the Interior may in his discretion increase the royalty rate prescribed in subsection (b) of Section 2 up to, but not exceeding (i) 5% during the first ten-year renewal period, (ii) 6% during the second ten-year renewal period, and (iii) 7% during the third ten-year renewal period.* The extent of readjustment of royalty, if any to be made under this section shall be determined prior to the commencement of the renewal period.

1966 leases § 5 (emphases added). As explained more fully below, since at least 1986, the Solicitor’s Office has interpreted section 5 to mean that, even if the Secretary can and does, as a matter of discretion, renew the lease to extend the time to commence production, there is no right



to a further renewal when production<sup>14</sup> has not begun at the end of the first renewal-extension period.

The opening segment of the first sentence of section 5 describes the BLM's right to readjust the royalties and other terms and conditions at the renewal stage. This provision means that, as a general rule, if renewing the lease, the BLM is allowed to readjust not only the lease royalties but also other terms and conditions at the renewal stage, including stipulations to protect the surface.

The second segment of the first sentence following the semi-colon (highlighted in **bold** above) is a proviso that allows for three successive ten-year renewals, but conditions the lessee's right to those renewals on the lessee beginning production before the end of the primary term of the lease. The key conditioning language is at the end of the first sentence, as highlighted below:

provided, however, that the Lessee shall have the right to three successive ten-year renewals of this lease with any readjustment in royalties payable hereunder limited to that hereinafter provided and with no readjustment of any of the other terms and conditions of the lease **unless at the end of the primary term of this lease the Lessee shall not have begun production, either hereunder or under the companion lease granted to the Lessee this day.**

This highlighted clause, which begins with "unless," qualifies the very right to renew and not merely, as the company has asserted, the phrase describing the level of discretion the BLM has to readjust the other terms and conditions of the leases upon renewal. In other words, the proper meaning of the proviso is clear when the last clause is placed next to the provision it actually qualifies: "[T]he Lessee shall have the right to three successive ten-year renewals of this lease . . . unless at the end of the primary term of this lease the Lessee shall not have begun production, either hereunder or under the companion lease granted to the Lessee this day."

This conclusion is evident by the construction of the proviso. The two readjustment limitations are tied together and modify the "right to three successive ten-year renewals" language. The use of the conjunctive "and" between the two readjustment phrases ("with any readjustment in royalties payable hereunder limited to that hereinafter provided **and** with no readjustment of any of the other terms and conditions of the lease") ties them together as a single modifier to the right-to-renew language. Accordingly, the production requirement set out as the last clause of the proviso cannot merely qualify the readjustment phrases, as contended by TMM, but must apply to the overall right of renewal. In this way the proviso makes any non-discretionary renewal contingent on the lessee meeting the production requirement first, and then the conditions of that renewal regarding royalties and lease terms are specified in the readjustment phrases.

This conclusion is further reinforced by the second sentence of section 5 (the portion of section 5 underlined above). That sentence has three clauses. The first clause provides that the BLM has

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<sup>14</sup> None of the Department's solid minerals leasing regulations—including those in force at the time of the 1986 Solicitor's Opinion, those promulgated immediately thereafter, and those currently in force—expressly define the term "production." However, the rights granted in section 1 of the 1966 leases are described as mining, removing, and disposing of the copper and/or nickel minerals and associated minerals in, upon, or under the leased lands. These activities may be viewed to reasonably describe production.

the discretion to grant the lessee an extension beyond the primary term to begin production, if doing so would be in the interest of conservation or the lessee cannot operate the lease at a profit or for other reasons. The second clause states that, if an extension is granted, the lessee is entitled to a renewal in which the only revision allowed is to the royalties provision. These two clauses allow the lessee to use the first renewal as an extension time period to begin production. The third and final clause of the sentence, however, limits this right to a renewal if there is no production by the end of the extension: “but the Lessee shall not be entitled to subsequent such renewals unless it shall have begun production within the extended time.” This final clause reinforces the preceding sentence’s condition precedent that there must be production before the lessee has a “right” to subsequent renewals. The second sentence therefore again makes production a precondition for any right to renew and disallows the lessee from obtaining a “right” to a renewal if no production has occurred during the primary term or an extension that the Secretary may grant for commencement of production.

The third sentence of section 5 (the portion of section 5 in *italics* above) describes the degree to which the BLM may readjust the royalty if the lessee is entitled to a “limited adjustment” lease renewal under the first sentence, i.e., the Lessee is “entitled to renewal without readjustment except of royalties payable hereunder . . . .” But without production, there would be no such entitlement.

Taken as a whole, the language of section 5 does not give the lessee a non-discretionary right to three successive renewals. Rather, production is the condition precedent for the lessee to obtain any lease renewals of right. There is no right of renewal if there has been no production before the end of the primary term or at the end of any renewal that the BLM grants to extend the time for the lessee to commence production. The fact that the lease terms expressly state that subsequent renewals of right are not available if no production occurs during any extension the BLM may grant for commencement of production reiterates the linkage between renewals of right and production. It would be incongruent to link only the benefit of unchanged lease terms to production, while leaving the lease renewal and royalty readjustment terms unaffected by a lack of production. Such arbitrary line drawing would create little incentive for the lessee to develop the minerals, which is the entire purpose for these mineral leases. In contrast, when production is a condition precedent for lease renewals, the lease renewal provision effectively serves as a minimal due diligence provision for the lessee.<sup>15</sup>

TMM asserts a different interpretation though. TMM reads the proviso of the first sentence of section 5 to grant the lessee a non-discretionary right of renewal, with such right of renewal limited only to royalty readjustment and with no readjustment of any other lease terms. TMM also reads the production requirement in the provision—“unless at the end of the primary term of

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<sup>15</sup> We note that section 14 of the 1966 leases does not change this conclusion. Section 14 sets forth the royalty rates that would apply in the second ten years of the primary lease term and in the first, second, and third ten-year renewal periods, if the lessee were to sink a shaft for underground exploration or development or otherwise begin commercial development within five years of obtaining the rights and authorizations for construction, operation and maintenance of the leased premises. According to TMM, in 1967, its predecessor in interest, INCO, sunk an 1100-foot shaft for exploration and development on lease MNES 01352. TMM asserts that section 14 contractually entitles it to these royalty rates during each of three renewal periods. However, nothing in section 14 provides for a non-discretionary right of renewal. Rather, section 14 merely describes the royalty rate that would apply during the first three ten-year renewals. It does not grant those renewals and does not state that sinking an exploration or development shaft entitles the lessee to those renewals.

this lease the Lessee shall not have begun production”—to modify only the readjustment limitation language, not the right to renewal language. Under TMM’s interpretation of the provision, if the lessee begins production within the primary term, the BLM may make only limited royalty adjustments, as provided in the leases, and no adjustments to any other lease terms. If, on the other hand, the lessee fails to begin production within the primary term, according to TMM, the lack of production negates only the readjustment limitations in the provision, and the BLM would be able to impose greater royalty readjustments and readjust other terms and conditions of the leases upon renewal. In other words, under the company’s reading, a right to three successive ten-year renewals begins immediately following the primary terms regardless of whether production has occurred, and section 5 only affects the parameters for the BLM’s readjustment of the lease terms in those non-discretionary three renewals.

In addition to being unsupported by the terms of the proviso as described above, TMM’s interpretation would allow it to hold the leases without any need to produce minerals in paying quantities for at least fifty years, and longer in this instance given the time to process the lease renewals. This interpretation not only conflicts with the plain wording of the 1966 lease terms but also is contrary to the very intent of the applicable statutory framework under which the Secretary may authorize mineral development with an expectation of revenues, not speculative land holdings. *See* Reorganization Plan No. 3 of 1946 § 402, 60 Stat. 1097, 1099-1100; 16 U.S.C. § 520. Interpreting the leases to allow for three non-discretionary renewals covering a thirty-year time span without the occurrence of the very underlying activity for which the leases are issued in the first place would defeat the purpose of entering into the lease. Such an interpretation would allow for the speculative holding of mineral rights, which is contrary to Congress’s intent to encourage productive mineral development while also providing a fair return to the American taxpayer.

Our interpretation that section 5 requires the lessee to begin production to obtain the benefit of any non-discretionary right of renewal is not only mandated by the lease terms, but is consistent with the regulation regarding renewal applications cited in the lease. Section 1(a) of the 1966 leases requires the renewals to be in accordance with 43 C.F.R. § 3221.4(f) (1966), which in turn requires that renewal applications “must be filed in a manner similar to that prescribed for extension of a prospecting permit in § 3221.3(a).” Under 43 C.F.R. § 3221.3(a), a prospector must show that he or she has “diligently performed prospecting activities” to support an application for an extension of a prospecting permit.<sup>16</sup> Allowing for the difference between a prospecting permit application and a lease renewal application, § 3221.3(a) requires that the lease renewal application include a showing of diligence in performing the lease activities (rather than the prospecting activities), which are reasonably viewed, consistent with the rights granted in section 1 of the lease terms, as mining, removing, and disposing of the copper and/or nickel minerals and associated minerals—i.e., production. Consequently, by stating that any renewals must be “in accordance with 43 C.F.R. § 3221.4(f),” the lease terms again identified production as the baseline for obtaining a renewal of right. Based on the lease terms as a whole, and because there has been no production during the primary term or the succeeding extensions through lease renewals that the BLM has granted, TMM has not satisfied the condition precedent

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<sup>16</sup> Under 43 C.F.R. § 3221.3(a) (1966), in addition to making a show of diligence, the applicant must file an application in triplicate within ninety days before the expiration date of the lease term and must pay a filing fee.

for obtaining a renewal of right and, therefore, the BLM has discretion to make a decision regarding whether to renew the leases even if the 1966 renewal terms were in effect.

In addition, the Solicitor's Office has already concluded that the BLM is not required to renew the 1966 leases as a matter of right if there has been no production. In 1986, the Associate Solicitor for the Division of Energy and Resources sent a memorandum to the Deputy State Director for the BLM Eastern States Office responding to three questions from the Deputy State Director.<sup>17</sup> The first question was whether it was possible to grant lease renewals (for the same leases that are at issue here) when the leases had never been in production. In response, the Associate Solicitor examined the terms of the lease to determine whether or not lack of production precludes extending the lease term. The Associate Solicitor then relied on the second sentence of section 5 (the portion of section 5 underlined above) to conclude that, while the leases may be extended for a period not exceeding ten years even though production has not occurred, if production does not occur during the period of extension, "no further extensions will be allowed in accordance with the terms of the lease." Consistent with this legal advice and the provisions of section 5 of the 1966 leases, the BLM granted a ten-year extension by renewing these two leases in 1989.

As noted above, the BLM also renewed the leases for a second ten-year period in 2004. Because no production had occurred by that time, the BLM's decision to renew the leases in 2004 was discretionary. The BLM's decision to renew the leases in 2004 does not impede the BLM from again exercising discretion regarding the lessee's application for a third renewal of the leases, particularly where this office has previously concluded that the agency need not allow additional pre-production renewals.<sup>18</sup>

It should be noted that the lessee's payment of minimum royalties in lieu of production does not alter the foregoing analysis.<sup>19</sup> The payment of minimum royalties is certainly one incentive to produce that was imposed by the 1966 leases, but that incentive worked in tandem with the one created by the leases' production precondition for mandatory renewals. The second incentive

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<sup>17</sup> See Memorandum from Associate Solicitor, Energy and Resources, signed by Kenneth G. Lee, Assistant Solicitor, Branch of Eastern Resources, to Deputy State Director, Mineral Resources, Eastern States Office, Bureau of Land Management, "Application for Minimum Royalty Waiver Submitted by INCO Alloys International, Incorporated for Leases ES 01352 and ES 01353" (Apr. 2, 1986) (Attached).

<sup>18</sup> TMM has made no showing in its pending renewal application under 43 C.F.R. § 3221.4(f) (1966) that would entitle it to a third and final renewal under section 5 of the 1966 leases. TMM has never begun production. TMM's predecessor, INCO, sunk a development shaft and conducted bulk sampling, but neither of those actions qualifies as beginning production. Without any showing of diligence in mining, removing, or disposing of the copper, nickel, and associated minerals, and without beginning production, TMM is not entitled to any further non-discretionary ten-year renewals. TMM has also asserted that the Department of the Interior is prohibited by 30 U.S.C. § 184(h)(2), as well as the Department's regulations at 43 C.F.R. § 3514.40 (2015), from "cancelling" TMM's interest in the leases at issue as TMM is a bona fide purchaser. But the cancellation regulations have no applicability where, as here, the decision is whether to renew a lease. Were BLM to exercise its discretion to deny the lease renewal application, it would not be cancelling the leases, as contemplated by 30 U.S.C. § 184(h)(2) and 43 C.F.R. § 3514.40, but rather would be allowing leases that have been in existence for fifty years without production to terminate by their own terms.

<sup>19</sup> The original leases do not mention minimum royalties as a way to fulfill the production requirement. And section 2(b) of TMM's 2004 leases merely provides that "[a]t the request of the lessee, made prior to initiation of the lease year, the authorized officer may allow in writing the payment of a \$3.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year."

expired when no production occurred by the end of the extension period granted by the 1989 renewal. While the 2004 renewal leases retain the minimum royalties payment incentive, that fact has no impact on the renewal provision of the 2004 leases. Of course, for the leases to continue in effect during the renewal period, the lessee was required to continue to meet its obligation to pay royalties in lieu of production. However, that payment was and is not equivalent to production and does not somehow entitle the lessee to obtain a lease renewal of right; instead, it merely keeps the leases from terminating during the extension time period the BLM has granted through a lease renewal.

The fact that the payment of royalties in lieu of production cannot be the basis for establishing the right to renew, and cannot be a *de facto* means of extending a lease in perpetuity, is also clear from IBLA case law. In *General Chemical (Soda Ash) Partners*, the IBLA held that minimum royalties in lieu of production have “nothing to do with whether the Secretary, in looking at production from the mine of which the lease is a part at the end of the current lease term, will renew the lease for an additional term.” 176 IBLA at 9. The Board further held, “Moreover, ‘[t]he Secretary has the authority to encourage production and development of federally leased sodium resources *both through minimum development and production requirements and minimum royalties* imposed on each lease.” *Id.* (emphasis in original) (quoting 1982 Solicitor’s Opinion, 89 Interior Dec. at 185). The leases here use precisely both mechanisms to encourage production, albeit not successfully in this instance.

#### Conclusion

For the foregoing reasons, the lessee has not established a non-discretionary right to a third ten-year renewal. Under the governing 2004 lease terms, the BLM has the same discretion regarding whether to renew the lease for a third time as it had in determining whether to grant the initial lease. While the 2004 lease terms give the lessee a preference over other potential lessees to lease the lands in question, they do not entitle the lessee to non-discretionary renewal of the leases.

  
Hilary C. Tompkins

Attachment



## United States Department of the Interior

OFFICE OF THE SOLICITOR  
350 South Pickett Street  
ALEXANDRIA, VIRGINIA 22304

BLM.ER.0335

APR - 2 1986

### Memorandum

To: Deputy State Director, Mineral Resources (970)  
Eastern States Office, Bureau of Land Management

From: Associate Solicitor, Energy and Resources

Subject: Application for Minimum Royalty Waiver Submitted by  
INCO Alloys International, Incorporated for Leases  
ES 01352 and ES 01353

You have requested a legal opinion addressing three questions raised in a memorandum from the Milwaukee District Office. The answers along with these questions are set forth below.

Question No. 1: "Is it possible to grant lease renewals for these leases when the leases have never been in production? The lease documents and the regulations are not clear on this point. This question will surely be asked by INCO since the initial 20 year lease term expires on May 31, 1986."

A lease for hardrock minerals may be issued for a period not exceeding 20 years. The primary term on the subject leases was for a 20 year period. The lease shall be subject to a preferential right to renew for a term not to exceed 10 years at the end of the initial term and each succeeding term thereafter, upon such terms and conditions as may be incorporated in each lease or prescribed in the general regulations issued by the Secretary. 43 C.F.R. 3520.2-1(a)(2). The Secretary of the Interior has promulgated no regulations that require production as a prerequisite to the extension of such leases. Accordingly, we must look to the terms of the lease to determine whether or not lack of production precludes extending the lease term. Section 5 of the lease states that, "The Secretary of the Interior may grant extensions of time for commencement of production in the interest of conservation or upon a satisfactory showing by the lessee that the lease cannot be successfully operated at a profit or for other reasons . . . but the lessee shall not be entitled to subsequent such renewals unless it shall have begun production within the extended time." Therefore, according to the terms of the lease, such lease may be extended even though production has not occurred, for a period not exceeding 10 years. If production does not occur during the period of extension, no further extensions will be allowed in accordance with the terms of the lease.

Question No. 2: "INCO has been given waivers of minimum royalty payments for 5 years due to condition beyond its control (i.e.,

environmental analysis), and is now asking for a waiver based on additional conditions beyond its control (i.e., low copper and nickel prices). Has BLM set a binding precedence [sic] by granting the original waivers?"

INCO's failure to pay minimum royalties as set forth in section 2(c) of the lease, constitutes a breach of the covenants and conditions contained in the lease agreement. In section 6(b) of the lease, the United States reserved the right to waive any breach of the covenants and conditions contained therein but any such waiver shall extend only to the particular breach so waived and shall not limit the rights of the lessor with respect to any future breach. Therefore, waiver of a prior breach of the minimum royalty payments, does not obligate the Bureau to grant any subsequent waivers.

Question No. 3: Section 2(c) of the lease states, "Lessee [sic] may . . . waive . . . minimum royalty payments for reasonable periods of time . . . ." Waivers were given for the first 5 years they were due, which is one-fourth of the initial lease term. Would granting of further waivers be conceived to extend beyond a "reasonable period?"

Section 2(c) states that, "Lessor may in its discretion, waive, reduce, or suspend the minimum royalty payment for reasonable periods of time in the interest of conservation or when such action does not adversely affect the interest of the United States. . . ." Whether or not the waiver period is "reasonable" must be determined by an examination of the purpose for which such discretion was exercised. Obviously if the reason for such waiver was due to a condition that only existed for 3 years, then a waiver of minimum royalty for a 10 year period would probably be deemed unreasonable. We suggest that the information submitted by the lessee be examined and considered in its entirety in order to determine what is reasonable given the facts set forth in that information. In addition, the reasonable period of time is to be viewed in the context of the "interest of conservation" and the "interest of the United States."

If you should have any further questions relating to this matter, please contact Barry Crowell at 274-0204.



Kenneth G. Lee  
Assistant Solicitor  
Branch of Eastern Resources

Attachment



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
WASHINGTON 25, D. C.

IN REPLY REFER TO:

INDB(722b)

OCT 5 1965

Memorandum

To: Assistant Secretary, Mineral Resources  
From: Director, Bureau of Land Management  
Subject: Proposed Preference Right Lease to International Nickel Company, Inc.

The form of the lease to be issued pursuant to the above-referenced applications has been adjusted to the apparent satisfaction of all concerned through re-negotiation with officials of the company, in which representatives of your office, the Solicitor's Office, the Geological Survey and this Bureau participated. The purpose of this re-negotiation was to bring the terms and provisions of the previously-proposed (1954) lease into conformity with the regulations and policies of the Department and to gain the best possible agreement that the company would begin productive operations during the primary term. In this, we believe we have been largely successful.

However, the representatives of the company now contend that the royalty schedule in the earlier lease proposal was unduly high. They wish to see this schedule adjusted as indicated below. The royalty schedule previously agreed to is also listed for purposes of comparison.

<u>1954 Proposal</u>		<u>1965 Proposal (INDB)</u>			
<u>Lease Years</u>	<u>Rate</u>	<u>Lease Years</u>	<u>Rate</u>		
1-10	4%	1-20	2%	3	10
11-25	5%	21-30	3 1/2%	4	10
26-50	7 1/2%	31-40	4%	5	10
		41-50	4 1/2%	6	20
					<hr/>
					50



In both of these proposals, the royalty rate would be applied to a value at one-third of the market price of the quantity of fully-refined copper and nickel contained in ores shipped to the smelter-rolling mill.

Since as we have been able to determine, the information currently available concerning this deposit does not differ materially from the information known to all the parties at the time the original agreement was reached in 1924, essentially, there has been no substantiation of a sufficient justification for such a drastic royalty reduction as the company now proposes.

In view of the relatively low grade of the ore and the consequently low recovery ratio, we would not oppose a reduction in the royalty if such is needed in order to encourage the company to explore and operate these lodes. With this in mind, we submit the following schedule of royalties which we consider to be minimal.

#### Lowest Rates

1-10  
11-20  
21-30  
31-40

#### Rates

4 - 25	3 1/2	10
5 - 45	4	5
25	5	5
50		

If you agree that the suggested rates are acceptable to the Department, we will recommend that to the company as a counter proposal.

Apparently, the resolution of the royalty question is the last point of difference between the company and the Department, and the issue can thus now be resolved.

In conclusion, we would also appreciate your comments with reference to the provision on additional royalty, Section 1(d).

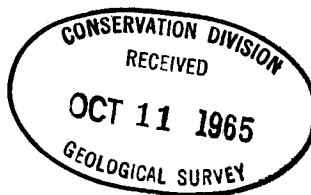
Charles H. Stoddard

Harold Duncan

I put this card before the house  
for BLM to be taking the initiative  
re royalty rates. As near as I  
can make out they are picking  
figures out of the blue. I see  
no indication of a justification  
for their suggested rate.

Let's discuss a course of  
action

HDN



10/14 P.M.  
Call from Blatnick's office  
telling about need to make a deal.  
I said nothing warranted me to OK  
a change over the royalty rates agreed  
to in 1956.

10/14

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
GEOLOGICAL SURVEY  
WASHINGTON 25, D. C.

REFERRED BY  
STAFF COORDINATOR,

TO.....  
.....

INT.-DUP. SEC., WASH., D.C.

84016

October 29, 1965

**Memorandum**

**To: Associate Director, Geological Survey**

**From: Chief, Conservation Division**

**Subject: Proposed preference right lease to International  
Nickel Company, Inc.**

Assistant Secretary Moore by memorandum dated October 7 requested an opinion on the proposed change in royalty rates to be made applicable to two consolidated preference right nickel-copper leases for lands in Twp. 61 and 62 N., and Rgs. 10, 11 and 12 W., St. Louis and Lake Counties, Minnesota.

The Federal lands involved originally covered several prospecting permits, some in the name of International Nickel and many obtained by International through purchase from individual permittees or by executing operating agreements. Eventually the several permits were combined into groups of two leases, the North lease, HLM-A-030141 covering ten prospecting permits for 2,326 acres, and the South lease, HLM-A-022697 covering seven permits for 2,612 acres.

The leases, if issued, will be outside the Superior Roadless area and have large areas of fee lands interspersed. Some of the prospecting permits were issued in 1951.

By memorandum of May 11, 1956, we reported to the Bureau of Land Management that 36 core holes had been drilled and records indicated nickel and copper of less than 1 percent.

International was well aware of the low mineral value per ton of ore and even in 1954, used a \$7 per ton value.

In considering the terms and conditions to be inserted into the lease, the minimum rentals and royalty rates were the subject of many long discussions between department and company representatives, many of which were attended by representatives from the Forest Service. Nowhere could we find a fee land nickel lease or a precedent for consideration nor could International supply

lease contracts--for it owned its deposits by purchase, or option to purchase, as do most mining companies operating in other countries and in most areas of the United States. Therefore, the royalty rates finalized in 1956 represented the best considered judgment of all parties concerned and I am not aware of any reason to change at this time.

One primary point of contention was the lease term. The regular lease provides for establishing a royalty for a period of 20 years with the right of renewal for 10 year periods thereafter, but on such terms and conditions as may be prescribed by the Secretary at each renewal date. International was unwilling to accept any such limited term for fixed royalties because of the large investment needed to get into operation. Thus, the term of 50 years and the fixed royalty rate for the entire term of 4 percent for 10 years, 5 percent for the next 15 years and 7 1/2 percent for the next 25 years.

All these terms were approved by the secretariat. Other favorable terms to International agreed to in the Department were the combining of the many permits into two leases thereby reducing 17 independent permit or lease obligations into two contracts. This combination permitted better planning of underground mine development and eliminated unnecessary property line protection provisions.

Following our recommendations of May 11, 1956, representatives of the Quetico-Superior International Peace Memorial Forest met with International, Interior and Forest Service representatives urging restrictions limiting structures and facilities on the leased land and that the ore concentration plant be located a substantial distance from "the edge of the Roadless area and from areas having recreational values." Of course, International could not accept such suggestions without further study as in previous conferences the plan of operations for mining favored the return of the tailings to the mine to prevent surface subsidence as mining would be along and under a river. Any requirement to haul ore 8 to 10 miles and return the tailings to the mine would increase costs materially.

Thereafter, the actual issuance of the two preference leases has been, and remains, suspended by Departmental approval.

I quote from a memorandum dated June 18, 1959, in the files from the Deputy Mining Supervisor which indicates the government frowned

on issuance of leases until a critical need for a supply of copper and nickel exists.

"On Saturday, June 6, 1938, in Ely, Minnesota, the writer and Bismore interviewed several persons concerning International Nickel Company's activities in the area.

"The records show that the last prospecting on permit land was done in the fall of 1937. Since that time they have not had a Geologist in the area. It is not known when any more work will be done on the permits.

"The Better Business Committee of Ely had written to their Congressman concerning pending leases to Inco. They had copies of letters from the Congressman, Department of the Interior and Department of Agriculture. For practical purposes the letters stated that the leases would not be issued until there was a critical need for a supply of copper and nickel in this country."

Now, it appears the question of a "critical need for copper and nickel" no longer governs but instead the local economic situation.

Demands have been made on International to begin mining to relieve unemployment in the Ely area.

Apparently, International has insisted on a greatly reduced royalty if it considered a 20-year fixed term lease and presumably the usual conditions for renewal without fixed royalty terms. In other words, we are back where we started in 1934 on terms and a demand by the Company for concessions if less than a 50-year term is demanded by the Department.

I have seen nothing in the files to warrant a reduced royalty rate suggested by International of 3 percent for 20 years, 3½ percent for 10 years, 4 percent for 10 years and 4½ percent for 10 years. Likewise, I find little justification for the reduction proposed by the Bureau of Land Management of 3, 4, and 5 percent for three 10 year periods and 6 percent for the last 20 years of a 50-year period.

I question any actual mining within the foreseeable future although more core drilling may take place. Inco is developing new sources of higher grade nickel ore in Canada and other

countries and there is, I am informed, a large stock pile of nickel in the United States.

One might very well raise the question "Why develop the only source of nickel in the U. S. at this time?"

For your information 25 percent of the income is returned to the State for public roads and schools in the county in which the leases are situated and 10 percent is used for construction of roads and trails in national forests in the State.

I would be glad to discuss the Inco and Bureau of Land Management proposals with you, if necessary.



Chief, Conservation Division

cc: ✓ Conservation Division File  
Desk File (HJD)

HJDuncan/fwq



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
GEOLOGICAL SURVEY  
WASHINGTON, D.C. 20242

August 18, 1965

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Minn.

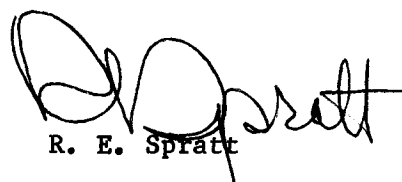
Memorandum

To: Conservation Division Files

From: Assistant Chief, Conservation Division

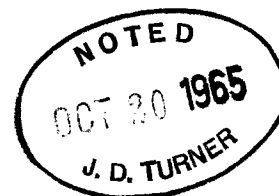
Subject: Phone call from Julian Feiss re meeting with  
International Nickel

Julian Feiss, Staff Geologist, Office of Assistant Secretary-- Mineral Resources, Fred Ferguson, Solicitor's Office, and Edward Steubing, Bureau of Land Management (Bill Shafer's successor) went to Congressman John A. Blatnick's office to confer with a new attorney, Philip M. Hanft of Duluth, and the Assistant Vice President from International Nickel Company, Dean D. Raustad of New York. Bill Shafer also came. Feiss did not realize until the meeting was under way that no one from Survey had been called. Feiss said that the meeting was on a friendly, cooperative basis, and that Inco has agreed to accept the standard lease form, to drop the 50-year development business, and is now wanting to negotiate royalty terms. Feiss said the Survey should be represented before any royalty discussions are held, so we can soon expect Inco to want a meeting but do not know when it will be held.

  
R. E. Spratt

cc: Mr. Duncan  
Mr. Turner

RESpratt:mes







UNITED STATES  
DEPARTMENT OF THE INTERIOR  
GEOLOGICAL SURVEY  
WASHINGTON 25, D. C.

ES-01353

IN REPLY REFER TO:

Memorandum

To: Secretary of the Interior  
Through: Assistant Secretary--Mineral Resources

From: Director, Geological Survey

Subject: Congressman John A. Blatnik may telephone the Secretary

Congressman John A. Blatnik of Minnesota, who has done an admirable job of vitalizing the taconite mining industry in Minnesota, has been trying to act as a catalyst in getting INCO (International Nickel Company) to take up its Federal leases and create a copper-nickel mine operation about 10 miles southeast of Ely, Lake County, Minnesota.

In 1954-56 negotiations between our Conservation Division specialists and INCO representatives resulted in a mutually acceptable lease arrangement, with option for lease continuing since 1956. The lease term is 50 years with royalty provisions based on one third of the "gross value" (specifically defined) as follows:

4% for 10 years	10 @ 4%
5% for 15 years	10 @ 4 1/2% 50 @ 5.3%
7 1/2% for 25 years	10 @ 5% 10 @ 6% 10 @ 7%

50 @ 6%

In recent months INCO requested a reduction of the agreed-upon royalty rates prior to issuance of the lease. Its position is being strongly supported by the Congressman under the impression, perhaps correct, that if INCO gets its terms it will commence operations immediately.

We have made a thorough restudy of the problem and see no compelling technical or economic factors justifying a reduction of the original royalty terms. We recommend the lease be offered on the basis of the original royalty rates. If some special inducement needs to be created, the public interest should be protected by insertion of a "performance" clause for development and production. With acceptance

of the recommended royalty rates a "reentry" clause for royalty adjustment might be introduced permitting revaluation and lowering of the royalty rates if justified after some operating experience.

The basic issue revolves around a value judgment as to how much profit is fair and reasonable or desirable for a mining company. The present disparity is measured only in a few pennies per ton. It should be kept in mind that 25 percent of all income is returned to the State for public roads and schools in the county in which the leases are situated and 10 percent for construction of roads and trails in national forests in the State.

I cannot in good conscience in the best public interest recommend revising in favor of DCO either the "gross value" factor or the royalty percentage figures.

Mr. J. L. Oberstar, representing the Congressman in recent discussions, said he would ask Congressman Biatnik to telephone the Secretary about this problem.

*W. T. Pecora*

W. T. Pecora  
Director

cc:  
MGS General Files  
Director's Chron.  
Conservation Div. Files  
Assistant Sec--MR 2 ✓  
Desk File (HJD)  
Desk File (Mining)

W. T. Pecora/dj      1-10-66

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

MINERAL LEASE

This lease entered into on the 1st day of June, 1966 between the United States of America, as Lessor, through the Bureau of Land Management, and The International Nickel Company, Inc., a Delaware corporation with offices at 67 Wall Street, New York, New York, as Lessee, pursuant to the authority set out in, and subject to, Section 402 of the President's Reorganization Plan No. 3 of 1946, 60 Stat. 1099, and the Act of June 30, 1950, 64 Stat. 311, and to all regulations of the Secretary of the Interior now in force when not inconsistent with any of the provisions herein.

WITNESSETH:

Sec. 1. (a) Rights of Lessee. In consideration of the rents and royalties to be paid and conditions and covenants to be observed as herein set forth the Lessor grants to the Lessee, subject to all privileges and uses heretofore duly authorized and prior valid claims, the exclusive right to mine, remove, and dispose of all the copper and/or nickel minerals and associated minerals and, with the exception of oil, gas, oil shale, coal, phosphate, potassium, sodium, or sulphur, any other minerals in, upon, or under the following described lands in the United States, in the State of Minnesota:

In Lake County:

Township 61 North, Range 11 West of the Fourth Principal Meridian:

Section 3, Lot 2  
SW-1/4 of SW-1/4  
S-1/2 of SE-1/4  
Section 5, Lots 1 and 2  
S-1/2 of NE-1/4  
Lot 6  
Lot 7  
NE-1/4 of SW-1/4  
S-1/2 of SW-1/4  
N-1/2 of SE-1/4

Section 6, Lots 13, 22, 23 and 24  
Section 7, Lots 1, 2, 3, 4, 9, 10, 12, 15, 16 and 19  
Section 8, Lots 2 and 6  
Section 9, All except W-1/2 of NW-1/4  
Section 18, Lots 2, 7, 9, 12, 13, 14, 15, 16, 17, 18  
19 and 20

Section 19, Lots 2, 3, 4, 5, 7 and 8

Township 62 North, Range 11 West of the Fourth Principal Meridian:

Section 27, SE-1/4 of SW-1/4  
Section 32, Lot 4  
Section 33, Lots 6 and 7  
Section 34, NW-1/4

In St. Louis County:

Township 61 North, Range 12 West of the Fourth Principal Meridian:

Section 25, Lot 2  
SW-1/4 of SW-1/4

containing ~~2,569.87~~ acres, more or less, together with the right

2,610.07

SEE DECISION 9-1-66

to construct and maintain thereon such structures and other facilities as may be necessary or convenient for the mining, preparation, and removal of said minerals, for a period of twenty (20) years with a right in the Lessee to renew the same for successive periods of ten (10) years each in accordance with regulation 43 CFR § 3221.4(f) and the provisions of this lease.

(b) Authorized Agency Representative. The United States agency having administrative control over the surface use of the land is the Department of Agriculture and its authorized agency representative, hereinafter called the "Authorized Officer," to whom inquiries should be addressed is the Supervisor, Superior National Forest at Duluth, Minnesota.

Sec. 2. In consideration of the foregoing, the Lessee agrees:

(a) Rentals. To pay to the Lessor annually in advance, beginning with the date of this lease, rental of one dollar (\$1.00) for each acre or fraction thereof for each lease year until production commences, the rental payment for the year in which production commences to be credited on royalties that accrue during that lease year.

(b) Royalty. To pay the Lessor within 30 days after the end of each period prescribed in subsection (e) of this section a royalty (i) at the rate of 4% during the first ten years of the primary term and (ii) at the rate of 4-1/2% during the second 10 years of the primary term, of the gross value of the minerals mined hereunder which are shipped to the concentrating mill during each such period. Said value for the purposes of this Agreement shall be taken to be one-third of the market prices of a quantity of fully-refined copper and of a quantity of fully-refined nickel equal to the respective quantities of unrefined copper and unrefined nickel contained in said minerals so shipped to the concentrating mill.

(c) Minimum royalty. Beginning after the tenth year of the lease, except with respect to any periods during which operations are interrupted by strikes, the elements or casualties not attributable to the Lessee, to mine each year from the area covered by the lease a quantity of the leased minerals such that the royalties payable for said year under subsections (b) and (d) hereof will during the primary term of the lease be at least equal to \$5 per annum per acre included in the leased premises at the beginning of such year, and during each renewal period of the lease be at least equal to \$10 per annum per acre included in the leased premises at the beginning of such year; or in lieu thereof to pay the Lessor as royalty within 30 days after the end of such year that amount which, when added to the royalties, if any, payable for said year under subsections (b) and (d) hereof, will equal the minimum royalty for that year herein provided. Lessor may in its discretion, waive, reduce, or suspend the minimum royalty payment for reasonable periods of time in the interest of conservation or when such action does not adversely affect the interest of the United States of America in accordance with the regulation 43 CFR § 3222.6-2.

(d) Additional royalty. (1) In order to provide a royalty in respect of any associated products (as hereinafter defined), to pay the Lessor within 30 days after the end of each period prescribed in subsection (e) of this section an additional royalty of 0.3% of the gross value of the minerals mined under this lease (determined on the basis of their copper and nickel content as provided in subsection (b) of this section) which are shipped to the concentrating mill during such

period. During the first ten years of the lease such additional royalty shall not be payable if the Lessee demonstrates that no associated products are being recovered from the minerals mined under this lease, but beginning after the tenth year of the lease, such additional royalty shall be payable whether or not associated products are recovered from the minerals mined under this lease.

(2) The Lessee will also pay the Lessor within 90 days after the end of each lease year a further additional royalty of 1% of the amount, if any, by which the gross value of associated products exceeds 20% of the aggregate market price as fully-refined metals of the quantity of copper and nickel contained in the minerals mined under this lease which are shipped to the concentrating mill during such lease year. At the request of either party following any lease year for which said 1% royalty has been payable and the gross value of associated products exceeds 30% of the said aggregate market price, representatives of the Lessor and the Lessee shall meet at a mutually agreeable time to consider and decide whether additional royalty for associated products shall continue to be payable as provided in this subsection (d), or shall (in lieu thereof) be payable on such basis as may be negotiated. In connection with such meeting the Lessee will make a reasonable investigation to ascertain insofar as practicable the volume of associated products which appear to be currently recovered from the minerals mined under this lease, and will provide the Lessor with the results of this investigation.

(3) For purposes of this agreement, the term "associated products" shall mean (i) fully-refined chemical elements (other than copper and nickel) not further processed and (ii) end products containing such elements produced by the Lessee (prior to full refining) for their value as such (other than products valuable chiefly by reason of their copper and/or nickel content), which are, in either case, recovered by the Lessee from minerals mined under this lease and sold or used by the Lessee during the lease year for which additional royalty, if any, is due; and the gross value of such products shall be taken to be the aggregate of the market prices of the respective quantities of associated products so sold or used by the Lessee.

(e) Statement. To furnish for each month or such longer period as may be prescribed by the Regional Mining Supervisor of the Geological Survey, statements in detail in such form as may be prescribed by him, of the amount and value under subsection (b) of this section of the minerals mined hereunder which are shipped to the concentrating mill during such period, for use in determining royalties, such statements to be furnished within 30 days from the close of such period. Falsification of such statements shall be grounds for cancellation of the lease.

(f) Market prices. For the purposes of this section the "market price of fully-refined copper" per pound shall be the average of the monthly average prices per pound for Domestic Refinery Electrolytic Copper in carload lots, f.o.b. Atlantic Seaboard refineries, published in E. & M. J. Metal and Mineral Markets for the period for which the royalty is being computed, and the "market price of fully-refined nickel" per pound shall be the average of the monthly average prices per pound for nickel (i.e., electrolytic nickel cathodes) in carload lots, f.o.b. Port Colborne, Ontario, Canada, United States import duty (if any) included, published in E. & M. J. Metal and Mineral Markets for the period for which royalty is being computed; and the respective "market prices of associated products" per unit

shall be the average of the monthly average prices per unit for such respective products in their usual and customary shipping quantities, f.o.b. their usual and customary place of disposal, published in E. & M. J. Metal and Mineral Markets for the period for which additional royalty, if any, is being computed.

(g) Bond. To furnish and maintain a bond in the sum of \$ 10,000.00 conditioned upon compliance with the terms and conditions of this lease, and to increase the amount thereof or furnish such other bond as may be required.

(h) Inspection. To permit at all reasonable times: (1) inspection by any authorized officer of the leased premises and all surface and underground improvements, works, machinery, equipment, and all books and records pertaining to operations and surveys or investigations under this lease; and (2) the Lessor to make copies of and extracts from any or all books and records pertaining to operations under this lease.

(i) Maps--Reports. To furnish, in duplicate, to the Regional Mining Supervisor, at such times as he may require, a plat in the manner and form prescribed by him showing prospecting and development work and improvements on the leased land and other related information, with a report as to all buildings, structures, and other works or equipment, situated elsewhere and owned or operated in conjunction with, or as a part of the operations conducted hereunder.

(j) To comply with all regulations of the Secretary of the Interior and the Secretary of Agriculture applicable to the leased premises which are under his jurisdiction; and to conduct operations in an orderly manner and in accordance with regulations in 30 CFR, Part 2250, and the applicable Federal and State laws; and to exercise reasonable diligence, skill, and care in the operation of the property; and to carry on all operations in accordance with approved methods and practices, having due regard for the prevention of damage to mineral deposits, water horizons and property, injury to life and health, and economic waste.

(k) Taxes. To pay when due all taxes lawfully assessed and levied under the laws of the State or the United States upon improvements, output of mines, and other rights, property, and assets of the Lessee.

(l) Deliver Premises. To deliver up to the Lessor in good order and condition and subject to the provisions of Section 9 hereof on the termination of this lease as a result of forfeiture thereof the lands covered thereby, including all underground timbering and such other supports and structures as are necessary for the preservation of the mine.

(m) Assignment. Not to assign this lease, or any interest therein, whether by direct assignment, operating agreement, working or royalty interest, or otherwise, nor sublet any portion of the leased premises, except with the approval in writing of the Lessor. All such assignments or subleases must be submitted in triplicate within 90 days from the date of execution and must contain all of the terms and conditions agreed upon by the parties thereto. Not to create overriding royalties in excess of those authorized by regulation 43 CFR § 3226.1.

An assignment of all or part of the record title to a portion of the acreage in the lease shall separate the lease into separate leaseholds and the terms hereof shall apply

7-11-46  
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Regist. Sec.  
Mining Staff (1226)  
dtd 7-11-46

separately to the segregated portions. Advance annual rental payments, if previously terminated, shall be resumed as to an undeveloped segregated portion on the next anniversary date of the lease; the minimum royalty payment herein specified shall apply separately to the segregated portions and the time allowed within which to commence operations on an undeveloped segregated portion shall be such reasonable period as shall be prescribed by the Lessor at the time the assignment is approved.

(n) Nondiscrimination Clauses. In connection with the performance of work under this contract, the Lessee agrees as follows:

(1) The Lessee will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Lessee will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Lessee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the authorized contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The Lessee will, in all solicitations or advertisements for employees placed by or on behalf of the Lessee state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

(3) The Lessee will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the said labor union or workers' representative of the Lessee's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Lessee will comply with all provisions of Executive Order No. 10925 of March 6, 1961, as amended, and of the rules, regulations, and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.

(5) The Lessee will furnish all information and reports required by Executive Order No. 10925 of March 6, 1961, as amended, and by the rules, regulations, and orders of the said Committee, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Committee for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Lessee's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the Lessee may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 10925 of March 6, 1961, as amended, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order or by rule, regulation, or order of the President's Committee on Equal Employment Opportunity, or as

otherwise provided by law.

(7) The Lessee will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the President's Committee on Equal Employment Opportunity issued pursuant to section 303 of Executive Order No. 10925 of March 6, 1961, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Lessee will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the Lessee becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Lessee may request the United States to enter into such litigation to protect the interests of the United States.

(o) Payments. Rentals under this lease shall be paid to the Manager of the proper Land Office, except that when this lease becomes productive the rentals and royalties shall be paid to the Regional Mining Supervisor of the United States Geological Survey, with whom all reports concerning operations under the lease shall be filed. All remittances to the Bureau of Land Management shall be made payable to the Bureau of Land Management, those to the Geological Survey shall be made payable to the United States Geological Survey.

Sec. 3. Lessee further agrees:

(a) Protection of Property. To conduct all operations hereunder with due regard for good land management, not to cut or destroy timber without previous permission from the Authorized Officer and to pay for such timber at rates prescribed by him; to avoid damage to improvements, timber, crops, or other cover; unless otherwise authorized by the Authorized Officer, not drill any well, carry on operations, make excavations, construct tunnels, drill, or otherwise disturb the surface of the lands within 200 feet of any building thereon and whenever required in writing by the Authorized Officer, and upon any partial or total relinquishment, cancellation or termination of this lease as to that portion of the land to which his rights have terminated, to fence or fill all sump holes, ditches and other excavations, remove or cover all debris, and so far as reasonably possible, reseed or otherwise restore the surface of the lands to their former condition, or to a productive or other condition satisfactory to the Authorized Officer, including the removal of structures as and if required, and when required by such Officer to bury all pipelines below plow depth.

(b) Fire precautions. To do all in his power to prevent and suppress fires on the land and vicinity, and to require his employees, contractors, and subcontractors to do likewise. Unless prevented by circumstances over which he has no control, to place his employees, contractors, and subcontractors at the disposal of the Authorized Officer for the purpose of fighting fires on or originating on the land or on adjacent areas or caused by the negligence of the Lessee or his employees, contractors, and subcontractors, with the understanding that payment for such services shall be made at rates to be determined by such Authorized Officer but not less than the current rates of pay prevailing in the vicinity for services of a similar character: Provided, that if the



Lessee, his employees, contractors, or subcontractors, or employees of any of them, caused or could have prevented the origin or spread of said fire or fires, no payment shall be made for services so rendered. During periods of serious fire danger, as may be specified by the Authorized Officer, the Lessee shall prohibit smoking and the building of camp and lunch fires by his employees, contractors, and subcontractors, within the leased area except at established camps, and shall enforce this prohibition by all means within his power: Provided, that the Authorized Officer may designate safe places where, after all inflammable material has been cleared away, campfires may be built for the purpose of heating lunches and where, at the option of the Lessee, smoking may be permitted. The Lessee will not burn rubbish, trash, or other inflammable materials except with the consent of the Authorized Officer. The Lessee shall build or construct such fire lines or do such clearing on the land as the Authorized Officer decides is essential for forest, brush, and grass fire prevention which is or may be necessitated by the exercise of the privileges authorized by this lease, and shall maintain such fire tools at his headquarters or at the appropriate location on the land as are deemed necessary by such Officer.

(c) Approval of Construction. Not to clear or use the land for development or for construction purposes of any kind until a plan of construction and development therefor has been approved by the Authorized Officer and that in the location, design, construction and maintenance of all authorized works, camps, buildings, plants, waterways, roads, telegraph or telephone lines, pipelines, reservoirs, tanks, pumping stations, or other structures or clearance, Lessee shall do all things reasonably necessary to prevent or reduce scarring and erosion of the land, pollution of the water resources and any damage to the watershed.

(d) Damage to Property. To pay the Lessor or its tenant, as the case may be, for any and all damage to or destruction of property caused by the Lessee's operations hereunder; to save and hold the Lessor or the surface owner or their tenants harmless from all damage or claims for damage to persons or property resulting from the Lessee's operations under this lease; and where the surface of the leased land is owned by other than the Lessor, to pay such owner, or his tenant, as the case may be, for damage or injury to livestock, crops, trees, pipelines, buildings, and other improvements of the leased lands. That where construction, operation, or maintenance of any of the facilities on or connected with this lease causes damage to the watershed or pollution of the water resources, to repair such damage and to take such corrective measures as are required by the Authorized Officer, including the reseedling or other restoration of the vegetative cover.

(e) Protection of Livestock; Access to Leased Lands. To install and maintain cattle guards to prevent the passage of livestock in any openings made in fences by the Lessee or his contractors to provide access to the lands covered by this lease for automotive and other equipment.

(f) Authorized Officer. All inquiries relating to this section should be addressed to the Authorized Officer named in Section 1(b) of this lease.

Sec. 4. Lessee--Agent. Prior to the beginning of operations the Lessee shall appoint and maintain at all times during the term of this lease a local agent upon whom may be served written orders or notices respecting matters contained in this lease, and shall inform the Authorized Officer and the Regional

Mining Supervisor of the Geological Survey, in writing, of the name and address of such agent. If a substitute agent is appointed, the Lessee shall immediately so inform the said Officers.

Sec. 5. Renewal Terms. The Lessor shall have the right to reasonably readjust and fix royalties payable hereunder at the end of the primary term of this lease and thereafter at the end of each successive renewal thereof unless otherwise provided by law at the time of the expiration of any such period, and to readjust other terms and conditions of the lease, including the revision of or imposition of stipulations for the protection of the surface of the land as may be required by the agency having jurisdiction thereof; provided, however, that the Lessee shall have the right to three successive ten-year renewals of this lease with any readjustment in the royalties payable hereunder limited to that hereinafter provided and with no readjustment of any of the other terms and conditions of this lease unless at the end of the primary term of this lease the Lessee shall not have begun production, either hereunder or under the companion lease granted to the Lessee this day. The Secretary of the Interior may grant extensions of time for commencement of production in the interest of conservation or upon a satisfactory showing by the Lessee that the lease cannot be successfully operated at a profit or for other reasons, and the Lessee shall be entitled to renewal as herein provided without readjustment except of royalties payable hereunder if at the end of the primary or renewal period such an extension shall be in effect, but the Lessee shall not be entitled to subsequent such renewals unless it shall have begun production within the extended time. If the Lessee shall be entitled to renewal without readjustment except of royalties payable hereunder, the Secretary of the Interior may in his discretion increase the royalty rate prescribed in subsection (b) of Section 2 up to, but not exceeding (i) 5% during the first ten-year renewal period, (ii) 6% during the second ten-year renewal period, and (iii) 7% during the third ten-year renewal period. The extent of readjustment of royalty, if any, to be made under this section shall be determined prior to the commencement of the renewal period.

Sec. 6. The Lessor expressly reserves:

(a) Rights Reserved. The right to permit for joint or several use easements or rights-of-way, including easements in tunnels upon, through, or in the land leased, occupied, or used as may be necessary or appropriate to the working of the same or other lands, and the preparation and shipment of the products thereof by or under authority of the Government, its Lessees or Permittees, and for other public purposes.

(b) Waiver of Conditions. The right to waive any breach of the covenants and conditions contained herein, but any such waiver shall extend only to the particular breach so waived and shall not limit the rights of the Lessor with respect to any future breach; nor shall the waiver of a particular cause of forfeiture prevent cancellation of this lease for any other cause, or for the same cause occurring at another time.

Sec. 7. It is mutually agreed:

(a) Mining Methods. That this lease does not authorize the mining or removal of the mineral deposits by stripping, rim cutting, or open pit methods without the prior written

approval of the Authorized Officer and on such conditions as he may prescribe.

(b) Reduction or Smelting of Ores. That the reduction or smelting of ores on the leased land is expressly prohibited in the absence of an agreement between the Lessee and the Authorized Officer authorizing such use of the surface of the land and providing for the necessary protection of life and property. Such agreement shall contain all of the terms and conditions under which the reduction or smelting of ores may be carried on and any violation of that agreement shall be considered a violation of the terms of this lease for the purpose of Section 10.

(c) Uses and Disposition of Surface. That the leased land shall be subject at all times to any other lawful uses or sale by the United States, its Lessees, Permittees, Licensees, and Assigns; provided that such uses or sale shall not prevent, obstruct, or unduly interfere with any privilege granted under this lease; Provided, that the Lessee shall recognize existing uses and commitments in the form of grazing, timber cutting, and special use permits, water developments, ditch, road, trail, pipeline, telephone and telegraph lines, fence, rights-of-way, and other similar improvements, and to conduct his operations so as to interfere as little as possible with the rights and privileges granted by these permits or with other existing uses.

(d) Granting Leases for Other Minerals. That the granting of this lease will not preclude the issuance of other leases of the same land for the purpose of mining and extracting oil, gas, oil shale, coal, phosphate, potassium, sodium, and sulphur.

Sec. 8. Relinquishment of Lease. The Lessee may surrender this lease or any one or more legal subdivisions included in the leased premises. If the lands are not described by legal subdivision, a partial relinquishment must describe definitely the lands surrendered and give the exact area thereof. A relinquishment must be filed in triplicate in the proper Land Office. Upon its acceptance, it will be effective as of the date it is filed, subject to the continued obligation of the Lessee and his surety to make payment of all accrued rentals and royalties, and to provide for the preservation of any mines or productive works or permanent improvements on the lands in accordance with the regulations and terms of the lease, and for the faithful compliance of all the terms of the lease.

Sec. 9. Removal of Equipment, etc., on Termination of Lease. On termination of this lease, by surrender, forfeiture, or otherwise, the Lessee shall have the privilege at any time within a period of one year thereafter of removing from the premises all machinery, equipment, tools, and materials, other than underground timbering placed by the Lessee in or on the leased lands, which are not necessary for the preservation of the mine. Any materials, tools, appliances, machinery, structures, and equipment, subject to removal as above provided, which are allowed to remain on the leased land shall become the property of the Lessor on expiration of the one-year period or such extension thereof as may be granted by the Lessor, but the Lessee shall remove any or all of such property when so directed by the Lessor.

Sec. 10. Proceedings in Case of Default. If the Lessee does not comply with the applicable regulations made a part hereof or the terms of this lease and such default continues for a period of 30 days, or such longer period as the Lessor determines may be reasonably required to correct the default, after service of written notice thereof by the Lessor, the Lessor may institute appropriate proceedings in a court of competent jurisdiction for the forfeiture and cancellation of this lease or seek such other administrative, legal or equitable remedies as may be appropriate. Furthermore, if the Lessee fails to take prompt and necessary steps to prevent loss or damage to the mine, property, or premises, or danger to the employees, the Lessor may enter on the premises and take such measures as may be deemed necessary to prevent such loss or damage, or to correct the dangerous or unsafe condition of the mine or works thereof, which shall be at the expense of the Lessee, but the Lessee shall not be held responsible for delays or casualties occasioned by causes beyond the Lessee's control.

Sec. 11. Heirs and Successors-in-Interest. Each obligation hereunder shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. Unlawful Interest. It is also further agreed that no Member of, or Delegate to, Congress, or Resident Commissioner, after his election or appointment, or either before or after he has qualified and during his continuance in office, and that no officer, agent, or employee of the Department of the Interior, except as provided in 43 CFR 7.4(a)(1), shall be admitted to any share or part in this lease or derive any benefit that may arise therefrom; and the provisions of Section 3741 of the Revised Statutes of the United States, as amended (41 U.S.C., Sec. 22), and sections 431, 432, and 433, Title 18 U.S.C., relating to contracts, enter into and form a part of this lease so far as the same may be applicable.

Sec. 13. Special Stipulations.

(a) In conformity with the principles of the Shipstead-Newton-Nolan Act of July 10, 1930 (16 U.S.C. 577), no occupancy or use of the surface within 400 feet of the shoreline of any lake or stream is authorized without the written approval of the Authorized Officer.

(b) Any and all operations authorized by this lease shall be done in accordance with a plan which must be submitted in triplicate and approved in writing by the Authorized Officer before such operations are begun. The operating plan will contain all such provisions as the Authorized Officer may reasonably determine are needed to maintain proper administration of the lands and surface resources. Where appropriate, depending upon the location and type of operation, the Authorized Officer may require the plan to contain provisions concerning the following matters:

1. The location and extent of areas to be occupied during operations.
2. The methods to be used in the operations.
3. The size and type of equipment to be used in the operations.
4. The capacity, character, standards of construction and size of all structures and facilities to be built.
5. The location and size of areas upon which vegetation will be destroyed or soil will be laid bare.

6. The steps which will be taken to prevent and control soil erosion.
7. The steps which will be taken to prevent water pollution.
8. The character, amount, and time of use of explosives or fire, including safety precautions which will be taken during their use.
9. The program proposed for rehabilitation and revegetation of disturbed lands.

If later operations require departure from or additions to the approved plan, revisions or amendments will be submitted in triplicate, with statements of the reasons for changes or additions, to the Authorized Officer for approval. Any and all operations conducted in advance of approval of an original, revised, or amended operating plan, or which are not in accord with an approved plan, constitute violations of the terms of this lease.

(c) If minerals from the leased premises be shipped outside the United States for treatment, Lessee shall, upon the call of the Lessor, and provided that there be no imposition of tariff, cause to be returned for sale or for use in the operations of the Lessee or of its affiliates in the United States quantities of copper equal to the quantities recovered from the minerals so shipped during the time of the call. The copper so returned shall be priced on no different basis than would then be applicable under circumstances prevailing had it been produced entirely within the United States and sold by a domestic producer, so that the prices will be competitive with those of domestic producers.

(d) Within 12 months after approval by the Authorized Officer Lessee will carry out a program in respect of this lease and the companion lease issued this day of drilling to ascertain the facts which will be essential to instituting production, and also will ship to the pilot plants of its parent company in Ontario, Canada, not less than 1,000 tons of ore to seek appropriate extractive metallurgical procedures therefor. The anticipated cost of the drilling program, to cover from 10,000 to 20,000 feet of drilling at an average cost of \$10 per foot is \$200,000. The estimated cost of preparing, transporting and treating the ore sample is \$125,000 to \$200,000; in addition revisions in and additions to the pilot plants in connection therewith are estimated to cost about \$250,000.

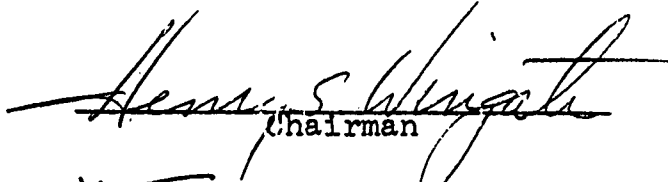
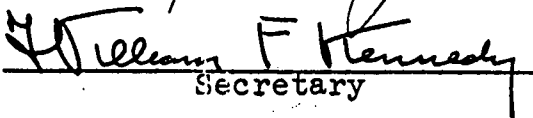
Sec. 14. Royalty Adjustment. If the Lessee shall have sunk a shaft for underground exploration or development or shall have otherwise commenced commercial development of the premises leased under this lease (or the companion lease issued to Lessee this day) within five years after the Regional Mining Supervisor shall have determined that the Federal and State governments have granted all necessary rights and authorizations for the construction, operation and maintenance of the leased premises, the rate of royalty payable under Section 2(b) with respect to the second ten years of the primary lease term shall be 4% in lieu of 4-1/2% as provided therein and the rates of royalty set forth in Section 5 shall not exceed (i) 4-1/2% during the first ten-year renewal

period, (ii) 5-1/2% during the second ten-year renewal period, and (iii) 6% during the third ten-year renewal period.

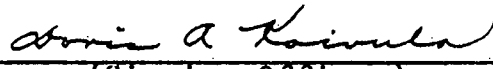
SIGNATURE OF LESSEE(S)

THE INTERNATIONAL NICKEL  
COMPANY, INC.

By

  
Chairman  
  
Secretary

THE UNITED STATES OF AMERICA

  
(Signing Officer)

Land Office Manager  
Eastern States Office  
(Title)

JUN 14 1966  
(Date)

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If this lease is executed by a corporation, it must bear the corporate seal.

#### EQUAL OPPORTUNITY

(a) The Nondiscrimination Clause, regarding "Equal Opportunity," in the attached mineral permit or lease, is amended by deleting references to the President's Committee on Equal Employment Opportunity, Executive Order No. 10925 of March 6, 1961, as amended, and section 303 of Executive Order No. 10925 of March 6, 1961, as amended; and substituting therefor the Secretary of Labor, Executive Order No. 11246 of September 24, 1965, and section 204 of Executive Order No. 11246 of September 24, 1965, respectively.

(b) In accordance with regulations of the Secretary of Labor, the rules, regulations, orders, instructions, designations, and other directives referred to in section 403(b) of Executive Order No. 11246, remain in effect and, where applicable, shall be observed in the performance of this contract until revoked or superseded by appropriate authority.

MEMORANDUM

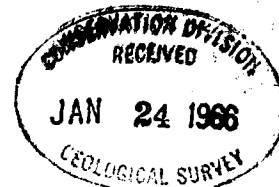
TO:

January 20, 1966

The Under Secretary

FROM: Assistant Secretary - Mineral Resources

SUBJECT: Inco Royalty Negotiations Meeting with  
Congressman Blatnik's Office



In accordance with your instructions Messrs. O'Leary and Standley of my office met today with Mr. James Oberstar of Congressman Blatnik's Office. It was suggested to Mr. Oberstar that the Department would consider accepting a reduction in our proposed royalty rates if a strict performance clause were included in the lease contract. No mention was made of a specific royalty rate reduction or the exact terms of a performance clause that would be acceptable to the Department. Our thoughts were that if these proposals were offered in generalized terms it would give the company room for further negotiations.

Mr. Oberstar said that he would discuss this proposal with officials of the International Nickel Company and relay back their reaction as soon as possible.

(sgd) J. Cordell Moore

EWStandley:ls

1/20/66

J. Cordell Moore

cc: Secretary File

Secretary Reading File

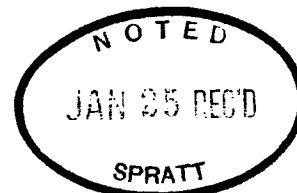
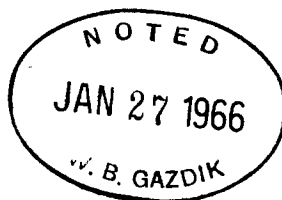
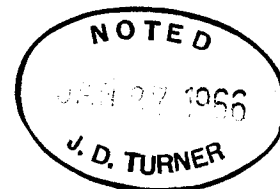
ASMR (2)

Mr. Standley

Mr. Pecora

Mr. Feiss

Mr. Duncan ✓



V. Vajt 8/28/85  
LST 8/28/85  
pJ 8/28/85

MDO:VV  
3500  
ES-01352  
ES-01353

28 AUG 1985

Memorandum

To: State Director (970)

From: Associate District Manager, Milwaukee

Subject: Recommendation Regarding an Application for Minimum Royalty Waiver  
Submitted by INCO Alloys International, Inc.

On June 26, 1985, INCO Alloys International, Inc. (INCO) submitted a minimum royalty waiver application for the five lease years from June 1, 1981 through May 31, 1986 (enclosed). This application requests waiver of minimum royalty payments based on the fact that low copper and nickel prices are preventing INCO from developing the properties. The company holds two Federal copper-nickel leases (ES-01352 and ES-01353) issued effective June 1, 1966. As of July 1, 1985, INCO owed the Federal government \$97,320 in past due minimum royalty payments for the lease years June 1, 1981 through May 31, 1985 (4 years).

With respect to minimum royalty, the subject leases contain the following clause:

Sec. 2 (c) Minimum royalty. Beginning after the tenth year of the lease, except with respect to any periods during which operations are interrupted by strikes, the elements or casualties not attributable to the Lessee, to mine each year from the area covered by the lease a quantity of the leased minerals such that the royalties payable for said year under subsections (b) and (d) hereof will during the primary terms of the lease be at least equal to \$5 per annum per acre included in the leased premises at the beginning of such year, and during each renewal period of the lease be at least equal to \$10 per annum per acre included in the leased premises at the beginning of such year; or in lieu thereof to pay the Lessor as royalty within 30 days after the end of such year that amount which, when added to the royalties, if any, payable for said year under subsections (b) and (d) hereof, will equal the minimum royalty for that year herein provided. Lessor may in its discretion, waive, reduce, or suspend the minimum royalty payment for reasonable periods of time in the interest of conservation or when such action does not adversely affect the interest of the United States of America in accordance with the regulation 43 CFR 3222.6.2.



Because these leases have never produced, minimum royalty payments were due beginning with the lease year June 1, 1976 through May 31, 1977. In response to applications submitted by INCO, waivers of the minimum royalty payments were granted for the five year period of June 1, 1976 through May 31, 1981. These waivers were granted as a result of annual waiver applications submitted by INCO, which cited the fact that the State of Minnesota was in the process of conducting environmental studies on the proposed mining operations, thereby preventing INCO from developing the leases. These environmental studies were completed in 1979, at which time INCO was free to submit applications to the State for mining. To date, no mining applications have been submitted to either the State, or the Bureau, nor have any minimum royalty waiver applications been submitted since 1981.

In accordance with Sec. 2(c) of the INCO leases, the Bureau has the authority to approve waivers of minimum royalty payments. The following is a summary of the analysis regarding the appropriate disposition of the waivers application.

1. Rationale for denial of the minimum royalty waiver

- a. Unwritten Bureau of Land Management policy specifies that waivers of lease terms are not granted based on market conditions. Market conditions and prices are considered to be normal business risks.
- b. The provision for minimum royalty in lieu of production requirements was a lease term arrived at through pre-lease negotiations between the Bureau and INCO. The intention of the minimum royalty is to spur development of the resource and, in effect, is the only diligence requirement contained in the subject leases. Waiver of minimum royalty removes all incentive for the timely development of the leases.
- c. Granting of the waiver would set an undesirable, long-term precedence due to the depressed copper market. The Government would forego future annual minimum royalty income of \$24,330 by granting the waiver.

If such a precedent were set, the government would be obligated to establish a commodity by commodity "threshold level" for granting waivers, a different "level" for granting royalty reduction, and a third "level" for the denial of both waivers and reductions.

- d. Section 2(c) states "Lessor may...waive...minimum royalty payments for reasonable periods of time...." Waivers were given for the first 5 years in which minimum royalty was due, constituting one-fourth of the initial lease term. The granting of additional waivers could be conceived to extend beyond a "reasonable period."

2. Rationale for approval of the minimum royalty waivers

- a. The Company appears to be best suited to develop the property because of its 1) expertise in Copper-Nickel mining of similar deposits and 2) extensive geologic knowledge of the subject leases.

- b. The Company can not develop the property because of factors beyond its control (i.e., low copper prices). The Interior Department granted waivers to INCO in the past because of ongoing environmental studies, a condition also beyond the control of INCO. The Department may have set a precedent by granting the original waivers.
- c. An action such as the denial of minimum royalty waivers which could result in lease termination may be counter to the development of the property. The likelihood of another company acquiring the property at this time is unlikely. In addition, the Bureau would incur costs for environmental analysis and competitive leasing in the event the property were to be re-leased.
- d. The Company invested over a million dollars and a substantial amount of time evaluating the property.
- e. This ore is especially difficult to process. The development of new processing technology would be required to enable the ore to compete with other copper ores.

We have considered the preceding arguments and find the reasons for denying the waiver request outweigh those for granting the request. All of the supporting reasons for denying the request are totally valid, however, many of those which support granting the request are weak. The following factors should also be considered:

- 2. a. - We cannot, with any certainty, determine that there is not another company interested in the property with as much or more expertise.
- 2. b. - The government is not obligated by INCO's expenditure in any way.
- 2. e. - It is possible that knowledge of available reserves would encourage other companies to consider developing the necessary technology quicker than INCO.

We therefore recommend that INCO's request for waiver of minimum royalty payments be denied. We also recommend that legal advice regarding the following questions be obtained prior to a final decision.

- 1. Is it possible to grant lease renewals for these leases when the leases have never been in production? The lease documents and the regulations are not clear on this point. This question will surely be asked by INCO since the initial 20 year lease term expires on May 31, 1986.
- 2. INCO has been given waivers of minimum royalty payments for five years due to condition beyond its control (i.e., environmental analysis), and is now asking for a waiver based on additional conditions beyond its control (i.e., low copper and nickel prices). Has FLM set a binding precedence by granting the original waivers?

3. Section 2(c) of the lease states "Lessee may...waive...minimum royalty payments for reasonable periods of time..." Waivers were given for the first 5 years they were due, which is one-fourth of the initial lease term. Would granting of further waivers be conceived to extend beyond a "reasonable period?"

If you have any questions concerning this recommendation, please call Vincent Vogt at FTS 362-4422.

Enclosure

*Bert Anderson*

cc: Dave Stewart (972)  
Jim Horan (971)  
DO RF  
ES RF  
Library RF  
030:V.VOGT:cod:8/26/85:1351D



UNITED STATES  
DEPARTMENT OF  
AGRICULTURE

FOREST  
SERVICE

Superior  
National  
Forest

515 West 1st Street  
P.O. Box 338  
Duluth, MN 55801

Reply to: 2820

Date: February 9, 1987

Subject: INCO Lease Renewals

To: Regional Forester

Enclosed is a finding of categorical exclusion for my decision to proceed with the extension of Bureau of Land Management mineral leases ES 01352 and ES 01353. Usually this document would be signed by you, but in this case the leases designate me as authorizing officer. The activities authorized by these leases can be conducted in conformance with the management direction found in the Forest Plan.

*Clay G. Beal*

CLAY G. BEAL  
Forest Supervisor

Enclosure

BUREAU OF LAND MANAGEMENT  
DIVISION OF SOLID MINERALS  
VV MAR 07 1989  
ROLLA, MISSOURI 65401



FINDING OF CATEGORICAL EXCLUSION

CONDITIONS OF EXTENDING BUREAU OF LAND MANAGEMENT LEASES

Lake and St. Louis Counties, Minnesota  
Superior National Forest  
Kawishiwi Ranger District

I have decided that the terms and conditions of Bureau of Land Management (BLM) leases ES 01352 and ES 01353 are adequate to prevent or mitigate unacceptable impacts and that no additional conditions need to be added prior to their renewal provided that none of the terms and conditions related to my authority are diminished in any manner.

These leases include approximately 4,945 acres of Federal minerals located in T61N, R11W; T62N, R11W; and T62N, R10W of Lake and St. Louis Counties, Minnesota.

Public comments were solicited by publishing notices in local news papers, by radio interviews, and by contacting individuals. There were five responses to the public involvement. Four respondents asked for additional information. After the information was sent, they did not comment further. The fifth respondent was against issuing the leases based on general principals and also claimed tribal ownership of minerals in the lease area. The respondent was informed that we are not deciding if the leases should be issued but instead are deciding if new restrictions need to be added before extending them and that the question of tribal ownership of minerals goes far beyond the scope of this analysis. A copy of the lease and other information was also sent to the respondent but again no additional comments were received.

The only significant concern identified by the Forest Service was that the lease does not specifically require INCO to comply with certain laws and regulations. I have decided that Section 13 which requires my approval of an operating plan plus the requirement in subsection 3 (J) that the lessee comply with regulations of the Secretaries of Agriculture and Interior and with applicable Federal and State laws gives me the broad authority needed to require compliance with applicable laws and regulations even though they are not specifically listed in the lease.

These leases have been in effect for 20 years and past experience has shown that their terms and conditions provide adequate authority to prevent or mitigate unacceptable impacts. During this time the area has been extensively explored, hundreds of test holes have been drilled, both surface and underground bulk samples have been taken, and a large scale open pit mining operation proposed and evaluated. At no time were the terms and conditions of the leases found to be inadequate.

Implementation of this decision will take place immediately. This decision is subject to administrative review pursuant to 36 CFR 211.18.

*Clay G. Beal*

CLAY G. BEAL  
Forest Supervisor

2-6-87  
DATE



FINDING OF NO SIGNIFICANT IMPACT / DECISION RECORD

Preference Right Lease Numbers: MNES 1352, MNES 1353

Proposed Action: Lease renewals, Superior National Forest

State: Minnesota; County: Lake, St. Louis; Acreage: 4,864.78

Background: The Superior National Forest has completed the attached "Finding of Categorical Exclusion", which analyzes the above proposed action. The Superior National Forest Supervisor signed this document on February 6, 1987, indicating that "the terms and conditions of Bureau of Land Management (BLM) leases ES 01352 and ES 01353 are adequate to prevent or mitigate unacceptable impacts and that no additional conditions need to be added prior to their renewal provided that none of the terms and conditions related to my authority are diminished in any manner." This analysis adequately addresses impacts associated with hardrock mineral lease renewals, and this proposal is within the scope of analysis covered by this document. The Forest Service consented to renewal of this lease via a letter submitted to the Eastern States Office of BLM dated June 19, 1987, with a letter of clarification following on March 24, 1988. The consent requires that the existing terms and conditions affecting surface uses be attached to the renewed leases.

Environmental Considerations: I have reviewed the above-referenced document and have considered the environmental consequences of this proposal. All environmental considerations have been adequately addressed in the above-referenced document.

Finding of No Significant Impact: Based on the analysis in the referenced environmental document, this decision will not result in any significant impacts to the environment, therefore an environmental impact statement is not required.

Vernant Vegt  
Assistant District Manager for Solid Minerals

3/7/89  
Date

Decision: It is my decision to approve the proposed action, subject to existing lease terms and conditions.

Rationale: The decision to renew this lease will not result in any undue or unnecessary environmental degradation.

\_\_\_\_\_  
District Manager, Milwaukee

\_\_\_\_\_  
Date



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
MILWAUKEE DISTRICT OFFICE  
P.O. BOX 631  
MILWAUKEE, WISCONSIN 53201-0631

IN REPLY REFER TO:

MDO:JN  
ES-1352  
ES-1353

09 JUL 1986

## Memorandum

To: State Director (970)

From: Assistant District Manager for Energy and Minerals, Milwaukee

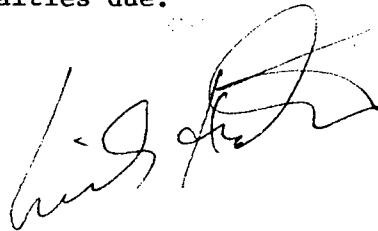
Subject: Recommendations for Lease Renewals, International Nickel Corporation Leases ES-1352 and ES-1353

Mineral leases ES-1352 and ES-1353, issued to the International Nickel Corporation (INCO), expired on June 1, 1986. These leases granted to INCO the right to mine ore containing copper, nickel, and associated minerals from Federal mineral lands in Lake and St. Louis counties, Minnesota. The surface management of these lands is the responsibility of the USDA, Forest Service.

During the initial 20-year lease term, no production was realized from the leases. On May 14, 1986, INCO filed for renewal of the leases. In response to your request of June 6, 1986, we are providing the following recommendations regarding the renewal of the leases:

1. The Bureau of Land Management, Eastern States Office, should require the payment by INCO of \$121,560 to the Minerals Management Service. This represents the total minimum royalties accruing from the two leases during the five lease years 1981-1986 (please refer to our memoranda to the State Director (970) dated April 15, 1985; August 28, 1985; and June 18, 1986).
2. The Bureau of Land Management, Eastern States Office, should request the USDA, Forest Service, to provide proposed additions, deletions, and changes to lease stipulations for the protection of surface values and the mitigation of impacts to surface uses and resources.
3. The State of Minnesota should be informed of the pending lease renewals.
4. The production royalties to be paid by INCO to the Federal government should be increased to 5% consistent with the provisions of other leases for metals mining in the district.

5. The minimum royalty in lieu of production should be set at \$3 per acre per year, consistent with the requirements set forth at 43 CFR 3503.2-2(b) and (c).
6. INCO should be required by lease stipulation or condition of renewal to produce 1% of the reserves present on either leased property by the date of lease expiration. Such production would result in the satisfaction of the requirement on both leases. Failure to comply with this stipulation would result in the termination of both leases.
7. Rental, as required by regulations at 43 CFR 3561.2-1(a) remains at \$1.00 per acre per year, and should be credited against any royalties which may accrue to the lease during the year for which the rental was paid.
8. Bond should remain at \$10,000 per lease until production is begun. At that time, the bond for each tract should increase to a level sufficient to ensure payment of royalties due.

A handwritten signature in dark ink, appearing to be "L. G. [unclear]", is written over the bottom right portion of the text.



*Gold*  
*7/18*

09 JUL 1986

## Memorandum

To: State Director (970)

From: Assistant District Manager for Energy and Minerals, Milwaukee

Subject: Recommendations for Lease Renewals, International Nickel Corporation  
Leases ES-1352 and ES-1353

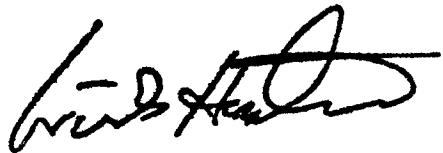
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During the initial 20-year lease term, no production was realized from the leases. On May 14, 1986, INCO filed for renewal of the leases. In response to your request of June 6, 1986, we are providing the following recommendations regarding the renewal of the leases:

1. The Bureau of Land Management, Eastern States Office, should require the payment by INCO of \$121,560 to the Minerals Management Service. This represents the total minimum royalties accruing from the two leases during the five lease years 1981-1986 (please refer to our memoranda to the State Director (970) dated April 15, 1985; August 28, 1985; and June 18, 1986).
2. The Bureau of Land Management, Eastern States Office, should request the USDA, Forest Service, to provide proposed additions, deletions, and changes to lease stipulations for the protection of surface values and the mitigation of impacts to surface uses and resources.
3. The State of Minnesota should be informed of the pending lease renewals.
4. The production royalties to be paid by INCO to the Federal government should be increased to 5% consistent with the provisions of other leases for metals mining in the district.

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6. INCO should be required by lease stipulation or condition of renewal to produce 1% of the reserves present on either leased property by the date of lease expiration. Such production would result in the satisfaction of the requirement on both leases. Failure to comply with this stipulation would result in the termination of both leases.
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8. Bond should remain at \$10,000 per lease until production is begun. At that time, the bond for each tract should increase to a level sufficient to ensure payment of royalties due.

cc: Dave Stewart (972)  
Loana McKenna (971)  
DO RF  
ES RF  
Library RF

A handwritten signature in dark ink, appearing to be 'Linda H. Hester', is written over the distribution list.

030:JNolder:cr:7/9/86:2148A

3500(971)DBE  
MMES 1352  
MMES 1353

SEP 12 1988

CLASSIFIED NO. P 396 695 536

DECISION


INCO Alloys International, Inc. : Preference Right Leases  
One New York Plaza :  
New York, New York 10004 :

Preference Right Lease Renewals  
Lease Terms Transmitted for Signature

The Forest Service and the Bureau of Land Management have agreed to the renewal of Preference Right Leases MMES 1352 and MMES 1353 under the existing terms and conditions.

Five copies of the new lease forms are transmitted for your completion and return to this office within 30 days. Failure to comply within 30 days of receipt of this decision will result in the final rejection of this renewal without further notice. This decision will become final 30 days from receipt in the absence of an appeal.

You have the right to appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 2, and the enclosure Form 1842-1. If an appeal is taken, your Notice of Appeal must be filed in this office so the case file can be transmitted to the Board. A copy of your Notice of Appeal and of any statement of reasons, written arguments, or briefs must also be given to the Office of the Solicitor as shown on Form 1842-1. It is also requested that you send a copy of any statement of reasons, written arguments, or briefs to the office issuing the decision appealed. In taking an appeal, there must be strict compliance with the regulations.

  
Stuart F. Carlson  
Deputy State Director  
for Mineral Resources

2 Enclosures


cc: Commissioner, Department of Natural Resources, Centennial Office Building,  
St. Paul, Minnesota 55135

Forest Service, Milwaukee MIS

ESD RF 070 RF 071 RF (DBLH)

071:Dist:cc:18-17-P8:461-1644:(WAG 7142M)

Rolla Office

 BUREAU OF LAND MANAGEMENT  
DIVISION OF SOLID MINERALS

VV SEP 16 1988  
SV 94

ROLLA, MISSOURI 65401



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
MILWAUKEE DISTRICT OFFICE  
DIVISION OF SOLID MINERALS  
901 PINE STREET  
ROLLA, MISSOURI 65401



IN REPLY REFER TO:

October 14, 1988

## Memorandum

To: State Director (970)

From: Assistant District Manager for Solid Minerals, Rolla

Subject: Recommendations for Lease Renewals, International Nickel Corporation  
Hardrock Mineral Leases MNES-1352 and MNES-1353

On July 9, 1986, the Assistant District Manager for Energy and Minerals, Milwaukee District Office, BLM sent you a memorandum concerning the above subject. On February 1, 1988, the Rolla office also recommended that the leases be renewed in accordance with the provisions of the July 9, 1986 memo.

The 1986 memo was written with the assumption that the leases would be renewed on a new lease form and the negotiated terms and conditions contained in the original forms would be abandoned. Upon further review of the leases and their case files, I would like to revise our recommendations concerning the subject renewals.

The requirements indicated in items 1, 2, 3, 7, and 8 of the 1986 memo have either been previously met, or are already required under the original leases.

Item 4 of the 1986 memo discusses increasing the royalty rate to 5 % of an unspecified value. Section 14 of the original leases discusses a royalty adjustment to be made as follows: "If the Lessee shall have sunk a shaft for underground exploration...within five years after the Regional Mining Supervisor shall have determined that the Federal and State governments have granted all necessary rights and authorizations for the construction, operation and maintenance of the leased premises,...the rates of royalty set forth in Section 5 shall not exceed (i) 4-1/2 % during the first ten-year renewal period..." The fact that INCO sank a 1,100 foot deep exploration shaft in 1967 appears to fulfill the requirement for the 4-1/2 % royalty to remain in effect for the first ten-year renewal period.

Item 5 recommended lowering the minimum royalty to \$ 3 per acre per year. The present leases require a \$ 10 per acre per year minimum royalty payment. This high minimum royalty payment was agreed to through intensive negotiations and is intended to serve as the "production incentive" or "diligent development" provision in the leases, and should not be changed.

Item 6 recommends the imposition of a production requirement, similar to

the "diligent development" requirement included in all Federal coal leases. As mentioned previously, these INCO leases contain a high minimum royalty payment requirement, which was agreed would serve as the production incentive. I also think that it is inappropriate to impose such a requirement on these two hardrock leases when no other hardrock leases in our District contain such a requirement.

Because of the highly negotiated terms and conditions of these two leases, which contain many references to requirements to be applied during lease renewal periods, I recommend that these leases be renewed under the existing terms and conditions and in their present form, i.e., not on the new lease form. If you have any questions, please give me a call.

*Clinton Vest*



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

### EASTERN STATES OFFICE

350 South Pickett Street  
ALEXANDRIA, VIRGINIA 22304

BUREAU OF LAND MANAGEMENT  
DIVISION OF SOLID MINERALS

IN REPLY REFER TO:

3500(971)TDB  
MNES 1352  
MNES 1353

OCT 27 1988

NOV 07 1988  
ROLLA, MISSOURI 65401

CERTIFIED NO. P 897 290 486

### DECISION

INCO Alloys International, Inc. : Preference Right Leases  
One New York Plaza :  
New York, New York 10004 :

### Decision Vacated

This office notified INCO Alloys International, Inc., by decision dated September 12, 1988, that Preference Right Leases MNES 1352 and MNES 1353 were ready for renewal.

The decision of September 12, 1988 is hereby vacated because the new lease forms submitted for signature will alter the terms and conditions of the original leases.

Your applications for renewal have been resubmitted to our Milwaukee District Office (Rolla) for their recommendations. Upon receipt of these recommendations, you will be notified of the actions to be taken on your lease renewals.

This decision will become final 30 days from receipt in the absence of an appeal.

You have the right to appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4, and the enclosed Form 1842-1. If an appeal is taken, your Notice of Appeal must be filed in this office so the case file can be transmitted to the Board. A copy of your Notice of Appeal and of any statement of reasons, written arguments, or briefs must also be served on the Office of the Solicitor as shown on Form 1842-1. It is also requested that you send a copy of any statement of reasons, written arguments, or briefs to the office issuing the decision appealed. In taking an appeal, there must be strict compliance with the regulations.

Stuart F. Carlson  
Deputy State Director  
for Mineral Resources

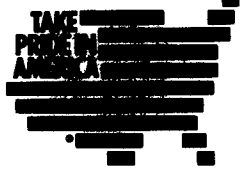
Enclosure

cc: Forest Service, Milwaukee



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
EASTERN STATES OFFICE  
350 SOUTH PICKETT STREET  
ALEXANDRIA, VIRGINIA 22304



IN REPLY REFER TO:

3500(971)TDB  
MNES 1352  
MNES 1353

APR 25 1989

CERTIFIED NO. P 897 177 529

## DECISION

INCO Alloys International, Inc. : Preference Right Leases  
One New York Plaza :  
New York, New York 10004 :

### Preference Right Leases Renewed Lease Forms Transmitted for Signature

The Forest Service and the Bureau of Land Management have agreed to the renewal of the enclosed Preference Right Leases MNES 1352 and MNES 1353 under the existing terms and conditions of the original leases.

Enclosed are lease renewal forms transmitted for your signature and return to this office.

The above documents must be submitted to this office within 30 days of receipt of this decision. Failure to return the executed copies during this 30-day compliance period will result in the rejection of the offer upon the conclusion of this compliance period. During this compliance period there is no right of appeal to the Interior Board of Land Appeals and an appeal filed within the compliance period is subject to dismissal as being premature. The 30-day appeal period commences upon the expiration of the 30-day compliance period.

You have the right to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4, and the enclosed Form 1842-1. If an appeal is taken, your Notice of Appeal must be filed in this office so the case file can be transmitted to the Board. A

BUREAU OF LAND MANAGEMENT  
DIVISION OF SOLID MINERALS

UV MAY 01 1989  
SV 911

ROLLA, MISSOURI 65408

copy of your Notice of Appeal and of any statement of reasons, written arguments, or briefs must also be served on the Office of the Solicitor as shown on Form 1842-1. It is also requested that you send a copy of any statement of reasons, written arguments, or briefs to the office issuing the decision appealed. In taking an appeal, there must be strict compliance with the regulations.



Stuart F. Carlson  
Deputy State Director  
for Mineral Resources

2 Enclosures

cc: Commissioner, Department of Natural Resources  
Centennial Office Building  
St. Paul, Minnesota 55755

Minerals Management Services  
Reference Data Branch  
Team One (Attn: Debbie Obrin)  
P.O. Box 25165  
Denver, Colorado 80225

Forest Service, Milwaukee  
Rolla Office



## PART II. TERMS AND CONDITIONS

Sec. 1. (a) RENTAL RATE - Lessee shall pay lessor rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate indicated below:

*Sulphur, Gilsomite -*

☐ 50 cents for the first lease year and each succeeding lease year;

*Hardrock -*

☐ \$1 for the first lease year and \$1 for each succeeding lease year;

*Phosphate -*

☐ 25 cents for the first lease year, 50 cents for the second and third lease years, and \$1 for each and every lease year thereafter;

*Potassium, Sodium -*

☐ 25 cents for the first calendar year or fraction thereof, 50 cents for the second, third, fourth, and fifth calendar years respectively, and \$1 for the sixth and each succeeding calendar year; or

*Sodium, Sulphur, Asphalt, and Hardrock Renewal Leases -*

☒ \$ 1.00 for each lease year;

(b) RENTAL CREDITS - The rental for any year will be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

\* Sec. 2. (a) PRODUCTION ROYALTIES - Lessee shall pay lessor a production royalty in accordance with the attached schedule. Such production royalty is due the last day of the month next following the month in which the minerals are sold or removed from the leased lands.

\*\* (b) MINIMUM ANNUAL PRODUCTION AND MINIMUM ROYALTY - (1) Lessee shall produce on an annual basis a minimum amount of copper, nickel & assoc. mins., except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. Lessor may permit suspension of operations under the lease when marketing conditions are such that the lease cannot be operated except at a loss. (2) At the request of the lessee, made prior to initiation of the lease year, the authorized officer may allow in writing the payment of a \$3.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year. Minimum royalty payments shall be credited to production royalties for that year.

Sec. 3. REDUCTION AND SUSPENSION - In accordance with Section 39 of the Mineral Leasing Act, 30 U.S.C. 209, the lessor reserves the authority to waive, suspend or reduce rental or minimum royalty, or to reduce royalty, and reserves the authority to assent to or order the suspension of this lease.

Sec. 4. BONDS - Lessee shall maintain in the proper office a lease bond in the amount of \$ 5,000, or in lieu thereof, an acceptable statewide or nationwide bond. The authorized officer may require an increase in this amount when additional coverage is determined appropriate.

• Sec. 5. DOCUMENTS, EVIDENCE AND INSPECTION - At such times and in such form as lessor may prescribe, lessee

shall furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.

Lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of lessor, the leased premises and all surface and underground improvements, work, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.

Lessee shall either submit or provide lessor access to and copying of documents reasonably necessary to verify lessee compliance with terms and conditions of the lease.

While this lease remains in effect, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Sec. 6. DAMAGES TO PROPERTY AND CONDUCT OF OPERATIONS - Lessee shall exercise reasonable diligence, skill, and care in the operation of the property, and carry on all operations in accordance with approved methods and practices as provided in the operating regulations, having due regard for the prevention of injury to life, health or property, and of waste or damage to any water or mineral deposits.

Lessee shall not conduct exploration or operations, other than casual use, prior to receipt of necessary permits or approval of plans of operations by lessor.

Lessee shall carry on all operations in accordance with approved methods and practices as provided in the operating regulations, and the approved mining plans in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, minerals, and other resources, and to other land uses or users. Lessee shall take measures deemed necessary by lessor to accomplish the intent of this lease term. Such measures may include, but are not limited to, modification to proposed siting or design of facilities, timing of operations, and specification of interim and final reclamation procedures.

Lessor reserves to itself the right to lease, sell, or otherwise dispose of the surface or other mineral deposits in the lands and the right to continue existing uses and to authorize future uses upon or in the leased lands, including issuing leases for mineral deposits not covered hereunder or the approval of easements or rights-of-way. Lessor shall condition such uses to prevent unnecessary or unreasonable interference with rights of lessee as may be consistent with concepts of multiple use and multiple mineral development.

Sec. 7. PROTECTION OF DIVERSE INTERESTS, AND EQUAL OPPORTUNITY - Lessee shall: pay when due all taxes legally assessed and levied under the laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States; maintain a safe working environment in accordance with standard industry practices; restrict the workday to not more than 8 hours in any one day for underground workers, except in emergencies; and take measures necessary to protect the health and safety of the public. No person under the age of 16 years shall be employed in any mine below the surface. To the extent that laws of the State in which the lands are

situated are more restrictive than the provisions in this paragraph, then the State laws apply.

Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec. 8. (a) TRANSFERS - This lease may be transferred in whole or in part to any person, association or corporation qualified to hold such lease interest.

(b) RELINQUISHMENT - The lessee may relinquish in writing at any time all rights under this lease or any portion thereof as provided in the regulations. Upon lessor's acceptance of the relinquishment, lessee shall be relieved of all future obligations under the lease or the relinquished portion thereof, whichever is applicable.

Sec. 9. DELIVERY OF PREMISES, REMOVAL OF MACHINERY, EQUIPMENT, ETC. - At such time as all or portions of this lease are returned to lessor, lessee shall deliver up to lessor the land leased, underground timbering, and such other supports and structures necessary for the preservation of the mine workings on the leased premises or deposits and place all wells in condition for suspension or abandonment. Within 180 days thereof, lessee shall remove from the premises all other structures, machinery, equipment, tools, and materials that it elects to or as required by the authorized officer. Any such structures, machinery, equipment, tools, and materials remaining on the leased lands beyond 180 days, or approved extension thereof, shall become the property of the lessor, but lessee shall either remove any or all such property or shall continue to be liable for the cost of removal and disposal in the amount actually incurred by the lessor. If the surface is owned by third parties, lessor shall waive the requirement for removal, provided the third parties do not object to such

waiver. Lessee shall, prior to the termination of bond liability or at any other time when required and in accordance with all applicable laws and regulations, reclaim all lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities on the leased lands, and reclaim access roads or trails.

Sec. 10. PROCEEDINGS IN CASE OF DEFAULT - If lessee fails to comply with applicable laws, now existing regulations, or the terms, conditions and stipulations of this lease, and the noncompliance continues for 30 days after written notice thereof, this lease shall be subject to cancellation by the lessor only by judicial proceedings. This provision shall not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver shall not prevent later cancellation for the same default occurring at any other time.

Sec. 11. HEIRS AND SUCCESSORS-IN-INTEREST - Each obligation of this lease shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. INDEMNIFICATION - Lessee shall indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under this lease.

Sec. 13. SPECIAL STATUTES - This lease is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151-1175), the Clean Air Act (42 U.S.C. 1857 et. seq.), and to all other applicable laws pertaining to exploration activities, mining operations and reclamation.

#### Sec. 14. SPECIAL STIPULATIONS -

\* The terms and conditions of the production royalties remains as stated in the attached original lease agreement.

\*\* The minimum annual production and minimum royalty is \$10.00 per acre or a fraction thereof as stated in the attached original lease agreement.



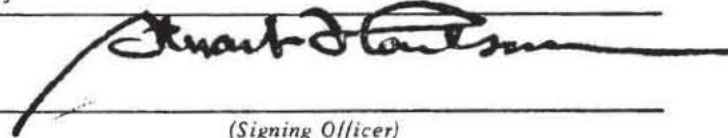
Sec. 14. SPECIAL STIPULATIONS - (Cont.)

THE UNITED STATES OF AMERICA

INGO ALLOYS INTERNATIONAL, INC.

Company or Lessee Name

By



(Signing Officer)

Deputy State Director for Mineral Resources

(Title)

JUN 27 1989

(Date)

x By 

(Signature of Lessee)

x Chief Legal Officer & Secretary

(Title)

x May 5, 1989

(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

NOTICE

The Privacy Act of 1974 and the regulations in 43 CFR 2.48(d) provides that you be furnished the following information in connection with information required under the terms of this lease.

AUTHORITY: 30 U.S.C. 181 et seq.; 43 CFR 3500.

PRINCIPAL PURPOSE: The information will be used to verify your compliance with the lease terms and in calculating royalty payments.

ROUTINE USES: (1) Evaluation of the effects of the operations on the environment. (2) Statistical reports to Congress. (3)(4) and (5) Information from the record and/or the record may be released or transferred to appropriate Federal, State or local agencies in allocating mineral revenue, for investigations of energy programs; and when relevant to civil, criminal or regulatory investigations or prosecutions, as well as routine regulatory responsibility.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of this information is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected for use in calculating royalty payments and in verification of compliance with lease terms.

Response to this request is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

Serial Number

Renewal Preference Right **LEASE**

MNES 1353

**PART I. LEASE RIGHTS GRANTED.**

This ☐ Lease ☒ Lease Renewal entered into by and between the UNITED STATES OF AMERICA, through the Bureau of Land Management, hereinafter called lessor, and (Name and Address)

INCO Alloys International, Inc.

One New York Plaza

New York, New York 10004

hereinafter called lessee, is effective (date)

**JUL 01 1989**

, for a period of ten years,

Sodium, Sulphur, Hardrock -

☒ with preferential right in the lessee to renew for successive periods of ten years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.

Potassium, Phosphate, Gilsonite -

☐ and for so long thereafter as lessee complies with the terms and conditions of this lease which are subject to readjustment at the end of each year period, unless otherwise provided by law.

Sec. 1. This lease is issued pursuant and subject to the terms and provisions of the:

☐ Mineral Leasing Act of 1920, as amended, and supplemented, 41 Stat. 437, 30 U.S.C. 181-287, hereinafter referred to as the Act;

☐ Mineral Leasing Act for Acquired Lands, Act of August 7, 1947, 61 Stat. 913, 30 U.S.C. 351-359;

☒ Reorganization Plan No. 3 of 1946, 60 Stat. 1099 and 43 U.S.C. 1201;

☐ (Other)

; and  
to the regulations and general mining orders of the Secretary of the Interior in force on the date this lease issued.

Sec. 2. Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to explore for, drill for, mine, extract, remove, beneficiate, concentrate, or otherwise process and dispose of the copper deposits nickel and associated minerals hereinafter referred to as "leased deposits," in, upon, or under the following described lands:

see attached

containing 2,254.71 acres, more or less, together with the right to construct such works, buildings, plants, structures, equipment and appliances and the right to use such on-lease rights-of-way which may be necessary and convenient in the exercise of the rights and privileges granted, subject to the conditions herein provided.

Phosphate -

☐ In accordance with Section 11 of the Act (30 U.S.C. 213), lessee may use deposits of silica, limestone, or other rock in the processing or refining of the phosphates, phosphate rock, and associated or related minerals mined from the leased lands or other lands upon payments of royalty as set forth on the attachment to this lease. (Phosphate leases only.)

## PART II. TERMS AND CONDITIONS

Sec. 1. (a) RENTAL RATE - Lessee shall pay lessor rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate indicated below:

*Sulphur, Gilsonite -*

☐ 50 cents for the first lease year and each succeeding lease year;

*Hardrock -*

☐ \$1 for the first lease year and \$1 for each succeeding lease year;

*Phosphate -*

☐ 25 cents for the first lease year, 50 cents for the second and third lease years, and \$1 for each and every lease year thereafter;

*Potassium, Sodium -*

☐ 25 cents for the first calendar year or fraction thereof, 50 cents for the second, third, fourth, and fifth calendar years respectively, and \$1 for the sixth and each succeeding calendar year; or

*Sodium, Sulphur, Asphalt, and Hardrock Renewal Leases -*

☒ \$ 1.00 for each lease year;

(b) RENTAL CREDITS - The rental for any year will be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

\* Sec. 2. (a) PRODUCTION ROYALTIES - Lessee shall pay lessor a production royalty in accordance with the attached schedule. Such production royalty is due the last day of the month next following the month in which the minerals are sold or removed from the leased lands.

\*\* (b) MINIMUM ANNUAL PRODUCTION AND MINIMUM ROYALTY - (1) Lessee shall produce on an annual basis a minimum amount of copper, nickel & assoc. mins., except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. Lessor may permit suspension of operations under the lease when marketing conditions are such that the lease cannot be operated except at a loss. (2) At the request of the lessee, made prior to initiation of the lease year, the authorized officer may allow in writing the payment of a \$3.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year. Minimum royalty payments shall be credited to production royalties for that year.

Sec. 3. REDUCTION AND SUSPENSION - In accordance with Section 39 of the Mineral Leasing Act, 30 U.S.C. 209, the lessor reserves the authority to waive, suspend or reduce rental or minimum royalty, or to reduce royalty, and reserves the authority to assent to or order the suspension of this lease.

Sec. 4. BONDS - Lessee shall maintain in the proper office a lease bond in the amount of \$ 5,000, or in lieu thereof, an acceptable statewide or nationwide bond. The authorized officer may require an increase in this amount when additional coverage is determined appropriate.

Sec. 5. DOCUMENTS, EVIDENCE AND INSPECTION - At such times and in such form as lessor may prescribe, lessee

shall furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.

Lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of lessor, the leased premises and all surface and underground improvements, work, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.

Lessee shall either submit or provide lessor access to and copying of documents reasonably necessary to verify lessee compliance with terms and conditions of the lease.

While this lease remains in effect, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Sec. 6. DAMAGES TO PROPERTY AND CONDUCT OF OPERATIONS - Lessee shall exercise reasonable diligence, skill, and care in the operation of the property, and carry on all operations in accordance with approved methods and practices as provided in the operating regulations, having due regard for the prevention of injury to life, health or property, and of waste or damage to any water or mineral deposits.

Lessee shall not conduct exploration or operations, other than casual use, prior to receipt of necessary permits or approval of plans of operations by lessor.

Lessee shall carry on all operations in accordance with approved methods and practices as provided in the operating regulations, and the approved mining plans in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, minerals, and other resources, and to other land uses or users. Lessee shall take measures deemed necessary by lessor to accomplish the intent of this lease term. Such measures may include, but are not limited to, modification to proposed siting or design of facilities, timing of operations, and specification of interim and final reclamation procedures.

Lessor reserves to itself the right to lease, sell, or otherwise dispose of the surface or other mineral deposits in the lands and the right to continue existing uses and to authorize future uses upon or in the leased lands, including issuing leases for mineral deposits not covered hereunder or the approval of easements or rights-of-way. Lessor shall condition such uses to prevent unnecessary or unreasonable interference with rights of lessee as may be consistent with concepts of multiple use and multiple mineral development.

Sec. 7. PROTECTION OF DIVERSE INTERESTS, AND EQUAL OPPORTUNITY - Lessee shall: pay when due all taxes legally assessed and levied under the laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States; maintain a safe working environment in accordance with standard industry practices; restrict the workday to not more than 8 hours in any one day for underground workers, except in emergencies; and take measures necessary to protect the health and safety of the public. No person under the age of 16 years shall be employed in any mine below the surface. To the extent that laws of the State in which the lands are



situated are more restrictive than the provisions in this paragraph, then the State laws apply.

Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec. 8. (a) TRANSFERS - This lease may be transferred in whole or in part to any person, association or corporation qualified to hold such lease interest.

(b) RELINQUISHMENT - The lessee may relinquish in writing at any time all rights under this lease or any portion thereof as provided in the regulations. Upon lessor's acceptance of the relinquishment, lessee shall be relieved of all future obligations under the lease or the relinquished portion thereof, whichever is applicable.

Sec. 9. DELIVERY OF PREMISES, REMOVAL OF MACHINERY, EQUIPMENT, ETC. - At such time as all or portions of this lease are returned to lessor, lessee shall deliver up to lessor the land leased, underground timbering, and such other supports and structures necessary for the preservation of the mine workings on the leased premises or deposits and place all wells in condition for suspension or abandonment. Within 180 days thereof, lessee shall remove from the premises all other structures, machinery, equipment, tools, and materials that it elects to or as required by the authorized officer. Any such structures, machinery, equipment, tools, and materials remaining on the leased lands beyond 180 days, or approved extension thereof, shall become the property of the lessor, but lessee shall either remove any or all such property or shall continue to be liable for the cost of removal and disposal in the amount actually incurred by the lessor. If the surface is owned by third parties, lessor shall waive the requirement for removal, provided the third parties do not object to such

waiver. Lessee shall, prior to the termination of bond liability or at any other time when required and in accordance with all applicable laws and regulations, reclaim all lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities on the leased lands, and reclaim access roads or trails.

Sec. 10. PROCEEDINGS IN CASE OF DEFAULT - If lessee fails to comply with applicable laws, now existing regulations, or the terms, conditions and stipulations of this lease, and the noncompliance continues for 30 days after written notice thereof, this lease shall be subject to cancellation by the lessor only by judicial proceedings. This provision shall not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver shall not prevent later cancellation for the same default occurring at any other time.

Sec. 11. HEIRS AND SUCCESSORS-IN-INTEREST - Each obligation of this lease shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. INDEMNIFICATION - Lessee shall indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under this lease.

Sec. 13. SPECIAL STATUTES - This lease is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151-1175), the Clean Air Act (42 U.S.C. 1857 et. seq.), and to all other applicable laws pertaining to exploration activities, mining operations and reclamation.

Sec. 14. SPECIAL STIPULATIONS -

\* The terms and conditions of the production royalties remains as stated in the attached original lease agreement.

\*\* The minimum annual production and minimum royalty is \$10.00 per acre or a fraction thereof as stated in the attached original lease agreement.

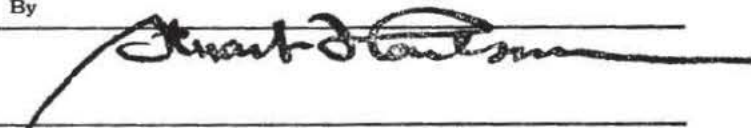
Sec. 14. SPECIAL STIPULATIONS - (Cont.)

THE UNITED STATES OF AMERICA

INCO ALLOYS INTERNATIONAL, INC

Company or Lessee Name

By



(Signing Officer)

Deputy State Director for Mineral Resources

(Title)

JUN 27 1989

(Date)

By *[Signature]*  
(Signature of Lessee)

Chief Legal Officer & Secretary  
(Title)

May 5, 1989  
(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

NOTICE

The Privacy Act of 1974 and the regulations in 43 CFR 2.48(d) provides that you be furnished the following information in connection with information required under the terms of this lease.

AUTHORITY: 30 U.S.C. 181 et seq.; 43 CFR 3500.

PRINCIPAL PURPOSE: The information will be used to verify your compliance with the lease terms and in calculating royalty payments.

ROUTINE USES: (1) Evaluation of the effects of the operations on the environment. (2) Statistical reports to Congress. (3)(4) and (5) Information from the record and/or the record may be released or transferred to appropriate Federal, State or local agencies in allocating mineral revenue, for investigations of energy programs; and when relevant to civil, criminal or regulatory investigations or prosecutions, as well as routine regulatory responsibility.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of this information is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected for use in calculating royalty payments and in verification of compliance with lease terms. Response to this request is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

Supplemental and Amended Complaint

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## **EXHIBIT 2**



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

Renewal Preference Right LEASE

Serial Number

MNES 1352

PART I. LEASE RIGHTS GRANTED.

This ☐ Lease ☒ Lease Renewal entered into by and between the UNITED STATES OF AMERICA, through the Bureau of Land Management, hereinafter called lessor, and (Name and Address)

INCO Alloys International, Inc.

One New York Plaza

New York, New York 10004

hereinafter called lessee, is effective (date)

JUL 01 1989

, for a period of ten years,

Sodium, Sulphur, Hardrock -

☒ with preferential right in the lessee to renew for successive periods of ten years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.

Potassium, Phosphate, Gilsonite -

☐ and for so long thereafter as lessee complies with the terms and conditions of this lease which are subject to readjustment at the end of each year period, unless otherwise provided by law.

Sec. 1. This lease is issued pursuant and subject to the terms and provisions of the:

☐ Mineral Leasing Act of 1920, as amended, and supplemented, 41 Stat. 437, 30 U.S.C. 181-287, hereinafter referred to as the Act;

☐ Mineral Leasing Act for Acquired Lands, Act of August 7, 1947, 61 Stat. 913, 30 U.S.C. 351-359;

☒ Reorganization Plan No. 3 of 1946, 60 Stat. 1099 and 43 U.S.C. 1201;

☐ (Other)

to the regulations and general mining orders of the Secretary of the Interior in force on the date this lease issued.

Sec. 2. Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to explore for, drill for, mine, extract, remove, beneficiate, concentrate, or otherwise process and dispose of the copper deposits nickel and associated minerals hereinafter referred to as "leased deposits," in, upon, or under the following described lands:

see attached

containing 2,610.07 acres, more or less, together with the right to construct such works, buildings, plants, structures, equipment and appliances and the right to use such on-lease rights-of-way which may be necessary and convenient in the exercise of the rights and privileges granted, subject to the conditions herein provided.

Phosphate -

☐ In accordance with Section 11 of the Act (30 U.S.C. 213), lessee may use deposits of silica, limestone, or other rock in the processing or refining of the phosphates, phosphate rock, and associated or related minerals mined from the leased lands or other lands upon payments of royalty as set forth on the attachment to this lease. (Phosphate leases only.)

## PART II. TERMS AND CONDITIONS

Sec. 1. (a) RENTAL RATE - Lessee shall pay lessor rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate indicated below:

*Sulphur, Gilsonite -*

☐ 50 cents for the first lease year and each succeeding lease year;

*Hardrock -*

☐ \$1 for the first lease year and \$1 for each succeeding lease year;

*Phosphate -*

☐ 25 cents for the first lease year, 50 cents for the second and third lease years, and \$1 for each and every lease year thereafter;

*Potassium, Sodium -*

☐ 25 cents for the first calendar year or fraction thereof, 50 cents for the second, third, fourth, and fifth calendar years respectively, and \$1 for the sixth and each succeeding calendar year; or

*Sodium, Sulphur, Asphalt, and Hardrock Renewal Leases -*  
☒ \$ 1.00 for each lease year;

(b) RENTAL CREDITS - The rental for any year will be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

\* Sec. 2. (a) PRODUCTION ROYALTIES - Lessee shall pay lessor a production royalty in accordance with the attached schedule. Such production royalty is due the last day of the month next following the month in which the minerals are sold or removed from the leased lands.

\*\* (b) MINIMUM ANNUAL PRODUCTION AND MINIMUM ROYALTY - (1) Lessee shall produce on an annual basis a minimum amount of ~~8,000 lbs. of copper, nickel, and zinc~~ <sup>of copper, nickel, and zinc</sup>, except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. Lessor may permit suspension of operations under the lease when marketing conditions are such that the lease cannot be operated except at a loss. (2) At the request of the lessee, made prior to initiation of the lease year, the authorized officer may allow in writing the payment of a \$3.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year. Minimum royalty payments shall be credited to production royalties for that year.

Sec. 3. REDUCTION AND SUSPENSION - In accordance with Section 39 of the Mineral Leasing Act, 30 U.S.C. 209, the lessor reserves the authority to waive, suspend or reduce rental or minimum royalty, or to reduce royalty, and reserves the authority to assent to or order the suspension of this lease.

Sec. 4. BONDS - Lessee shall maintain in the proper office a lease bond in the amount of \$ 5,000.00, or in lieu thereof, an acceptable statewide or nationwide bond. The authorized officer may require an increase in this amount when additional coverage is determined appropriate.

Sec. 5. DOCUMENTS, EVIDENCE AND INSPECTION - At such times and in such form as lessor may prescribe, lessee

shall furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.

Lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of lessor, the leased premises and all surface and underground improvements, work, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.

Lessee shall either submit or provide lessor access to and copying of documents reasonably necessary to verify lessee compliance with terms and conditions of the lease.

While this lease remains in effect, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Sec. 6. DAMAGES TO PROPERTY AND CONDUCT OF OPERATIONS - Lessee shall exercise reasonable diligence, skill, and care in the operation of the property, and carry on all operations in accordance with approved methods and practices as provided in the operating regulations, having due regard for the prevention of injury to life, health or property, and of waste or damage to any water or mineral deposits.

Lessee shall not conduct exploration or operations, other than casual use, prior to receipt of necessary permits or approval of plans of operations by lessor.

Lessee shall carry on all operations in accordance with approved methods and practices as provided in the operating regulations, and the approved mining plans in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, minerals, and other resources, and to other land uses or users. Lessee shall take measures deemed necessary by lessor to accomplish the intent of this lease term. Such measures may include, but are not limited to, modification to proposed siting or design of facilities, timing of operations, and specification of interim and final reclamation procedures.

Lessor reserves to itself the right to lease, sell, or otherwise dispose of the surface or other mineral deposits in the lands and the right to continue existing uses and to authorize future uses upon or in the leased lands, including issuing leases for mineral deposits not covered hereunder or the approval of easements or rights-of-way. Lessor shall condition such uses to prevent unnecessary or unreasonable interference with rights of lessee as may be consistent with concepts of multiple use and multiple mineral development.

Sec. 7. PROTECTION OF DIVERSE INTERESTS, AND EQUAL OPPORTUNITY - Lessee shall: pay when due all taxes legally assessed and levied under the laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States; maintain a safe working environment in accordance with standard industry practices; restrict the workday to not more than 8 hours in any one day for underground workers, except in emergencies; and take measures necessary to protect the health and safety of the public. No person under the age of 16 years shall be employed in any mine below the surface. To the extent that laws of the State in which the lands are

• situated are more restrictive than the provisions in this paragraph, then the State laws apply.

Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec. 8. (a) TRANSFERS - This lease may be transferred in whole or in part to any person, association or corporation qualified to hold such lease interest.

(b) RELINQUISHMENT - The lessee may relinquish in writing at any time all rights under this lease or any portion thereof as provided in the regulations. Upon lessor's acceptance of the relinquishment, lessee shall be relieved of all future obligations under the lease or the relinquished portion thereof, whichever is applicable.

Sec. 9. DELIVERY OF PREMISES, REMOVAL OF MACHINERY, EQUIPMENT, ETC. - At such time as all or portions of this lease are returned to lessor, lessee shall deliver up to lessor the land leased, underground timbering, and such other supports and structures necessary for the preservation of the mine workings on the leased premises or deposits and place all wells in condition for suspension or abandonment. Within 180 days thereof, lessee shall remove from the premises all other structures, machinery, equipment, tools, and materials that it elects to or as required by the authorized officer. Any such structures, machinery, equipment, tools, and materials remaining on the leased lands beyond 180 days, or approved extension thereof, shall become the property of the lessor, but lessee shall either remove any or all such property or shall continue to be liable for the cost of removal and disposal in the amount actually incurred by the lessor. If the surface is owned by third parties, lessor shall waive the requirement for removal, provided the third parties do not object to such.

#### Sec. 14. SPECIAL STIPULATIONS -

\* The terms and conditions of the production royalties remains as stated in the attached original lease agreement.

\*\* The minimum annual production and minimum royalty is \$10.00 per acre or a fraction thereof as stated in the attached original lease agreement.

waiver. Lessee shall, prior to the termination of bond liability or at any other time when required and in accordance with all applicable laws and regulations, reclaim all lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities on the leased lands, and reclaim access roads or trails.

Sec. 10. PROCEEDINGS IN CASE OF DEFAULT - If lessee fails to comply with applicable laws, now existing regulations, or the terms, conditions and stipulations of this lease, and the noncompliance continues for 30 days after written notice thereof, this lease shall be subject to cancellation by the lessor only by judicial proceedings. This provision shall not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver shall not prevent later cancellation for the same default occurring at any other time.

Sec. 11. HEIRS AND SUCCESSORS-IN-INTEREST - Each obligation of this lease shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. INDEMNIFICATION - Lessee shall indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under this lease.

Sec. 13. SPECIAL STATUTES - This lease is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151-1175), the Clean Air Act (42 U.S.C. 1857 et. seq.), and to all other applicable laws pertaining to exploration activities, mining operations and reclamation.



## Sec. 14. SPECIAL STIPULATIONS - (Cont.)

THE UNITED STATES OF AMERICA

INCO ALLOYS INTERNATIONAL, INC

Company or Lessee Name

By

X By Dylan L. Anderson  
(Signature of Lessee)

X Chief Legal Officer & Secretary  
(Title)

X May 5, 1989  
(Date)

Stuart J. Carlson  
(Signing Officer)

Deputy State Director for Mineral Resources  
(Title)

June 27, 1989  
(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

## NOTICE

The Privacy Act of 1974 and the regulations in 43 CFR 2.48(d) provides that you be furnished the following information in connection with information required under the terms of this lease.

AUTHORITY: 30 U.S.C. 181 et seq.; 43 CFR 3500.

PRINCIPAL PURPOSE: The information will be used to verify your compliance with the lease terms and in calculating royalty payments.

ROUTINE USES: (1) Evaluation of the effects of the operations on the environment. (2) Statistical reports to Congress. (3)(4) and (5) Information from the record and/or the record may be released or transferred to appropriate Federal, State or local agencies in allocating mineral revenue, for investigations of energy programs; and when relevant to civil, criminal or regulatory investigations or prosecutions, as well as routine regulatory responsibility.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of this information is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected for use in calculating royalty payments and in verification of compliance with lease terms.

Response to this request is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

Serial Number

Renewal Preference Right **LEASE**

MNES 1353

**PART I. LEASE RIGHTS GRANTED.**

This ☐ Lease ☒ Lease Renewal entered into by and between the UNITED STATES OF AMERICA, through the Bureau of Land Management, hereinafter called lessor, and (Name and Address)

INCO Alloys International, Inc.

One New York Plaza

New York, New York 10004

hereinafter called lessee, is effective (date)

**JUL 01 1989**

, for a period of ten years,

Sodium, Sulphur, Hardrock -

☒ with preferential right in the lessee to renew for successive periods of ten years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.

Potassium, Phosphate, Gilsonite -

☐ and for so long thereafter as lessee complies with the terms and conditions of this lease which are subject to readjustment at the end of each year period, unless otherwise provided by law.

Sec. 1. This lease is issued pursuant and subject to the terms and provisions of the:

☐ Mineral Leasing Act of 1920, as amended, and supplemented, 41 Stat. 437, 30 U.S.C. 181-287, hereinafter referred to as the Act;

☐ Mineral Leasing Act for Acquired Lands, Act of August 7, 1947, 61 Stat. 913, 30 U.S.C. 351-359;

☒ Reorganization Plan No. 3 of 1946, 60 Stat. 1099 and 43 U.S.C. 1201;

☐ (Other)

; and

to the regulations and general mining orders of the Secretary of the Interior in force on the date this lease issued.

Sec. 2. Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to explore for, drill for, mine, extract, remove, beneficiate, concentrate, or otherwise process and dispose of the copper deposits nickel and associated minerals hereinafter referred to as "leased deposits," in, upon, or under the following described lands:

see attached

containing 2,254.71 acres, more or less, together with the right to construct such works, buildings, plants, structures, equipment and appliances and the right to use such on-lease rights-of-way which may be necessary and convenient in the exercise of the rights and privileges granted, subject to the conditions herein provided.

Phosphate -

☐ In accordance with Section 11 of the Act (30 U.S.C. 213), lessee may use deposits of silica, limestone, or other rock in the processing or refining of the phosphates, phosphate rock, and associated or related minerals mined from the leased lands or other lands upon payments of royalty as set forth on the attachment to this lease. (Phosphate leases only.)

## PART II. TERMS AND CONDITIONS

Sec. 1. (a) RENTAL RATE - Lessee shall pay lessor rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate indicated below:

*Sulphur, Gilsonite -*

☐ 50 cents for the first lease year and each succeeding lease year;

*Hardrock -*

☐ \$1 for the first lease year and \$1 for each succeeding lease year;

*Phosphate -*

☐ 25 cents for the first lease year, 50 cents for the second and third lease years, and \$1 for each and every lease year thereafter;

*Potassium, Sodium -*

☐ 25 cents for the first calendar year or fraction thereof, 50 cents for the second, third, fourth, and fifth calendar years respectively, and \$1 for the sixth and each succeeding calendar year; or

*Sodium, Sulphur, Asphalt, and Hardrock Renewal Leases -*

☒ \$ 1.00 for each lease year;

(b) RENTAL CREDITS - The rental for any year will be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

\* Sec. 2. (a) PRODUCTION ROYALTIES - Lessee shall pay lessor a production royalty in accordance with the attached schedule. Such production royalty is due the last day of the month next following the month in which the minerals are sold or removed from the leased lands.

\*\* (b) MINIMUM ANNUAL PRODUCTION AND MINIMUM ROYALTY - (1) Lessee shall produce, on an annual basis a minimum amount of ~~copper, nickel~~ <sup>& assoc. mins.</sup>, except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. Lessor may permit suspension of operations under the lease when marketing conditions are such that the lease cannot be operated except at a loss. (2) At the request of the lessee, made prior to initiation of the lease year, the authorized officer may allow in writing the payment of a \$3.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year. Minimum royalty payments shall be credited to production royalties for that year.

Sec. 3. REDUCTION AND SUSPENSION - In accordance with Section 39 of the Mineral Leasing Act, 30 U.S.C. 209, the lessor reserves the authority to waive, suspend or reduce rental or minimum royalty, or to reduce royalty, and reserves the authority to assent to or order the suspension of this lease.

Sec. 4. BONDS - Lessee shall maintain in the proper office a lease bond in the amount of \$ 5,000, or in lieu thereof, an acceptable statewide or nationwide bond. The authorized officer may require an increase in this amount when additional coverage is determined appropriate.

Sec. 5. DOCUMENTS, EVIDENCE AND INSPECTION - At such times and in such form as lessor may prescribe, lessee

shall furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.

Lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of lessor, the leased premises and all surface and underground improvements, work, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.

Lessee shall either submit or provide lessor access to and copying of documents reasonably necessary to verify lessee compliance with terms and conditions of the lease.

While this lease remains in effect, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Sec. 6. DAMAGES TO PROPERTY AND CONDUCT OF OPERATIONS - Lessee shall exercise reasonable diligence, skill, and care in the operation of the property, and carry on all operations in accordance with approved methods and practices as provided in the operating regulations, having due regard for the prevention of injury to life, health or property, and of waste or damage to any water or mineral deposits.

Lessee shall not conduct exploration or operations, other than casual use, prior to receipt of necessary permits or approval of plans of operations by lessor.

Lessee shall carry on all operations in accordance with approved methods and practices as provided in the operating regulations, and the approved mining plans in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, minerals, and other resources, and to other land uses or users. Lessee shall take measures deemed necessary by lessor to accomplish the intent of this lease term. Such measures may include, but are not limited to, modification to proposed siting or design of facilities, timing of operations, and specification of interim and final reclamation procedures.

Lessor reserves to itself the right to lease, sell, or otherwise dispose of the surface or other mineral deposits in the lands and the right to continue existing uses and to authorize future uses upon or in the leased lands, including issuing leases for mineral deposits not covered hereunder or the approval of easements or rights-of-way. Lessor shall condition such uses to prevent unnecessary or unreasonable interference with rights of lessee as may be consistent with concepts of multiple use and multiple mineral development.

Sec. 7. PROTECTION OF DIVERSE INTERESTS, AND EQUAL OPPORTUNITY - Lessee shall: pay when due all taxes legally assessed and levied under the laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States; maintain a safe working environment in accordance with standard industry practices; restrict the workday to not more than 8 hours in any one day for underground workers, except in emergencies; and take measures necessary to protect the health and safety of the public. No person under the age of 16 years shall be employed in any mine below the surface. To the extent that laws of the State in which the lands are



situated are more restrictive than the provisions in this paragraph, then the State laws apply.

Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec. 8. (a) TRANSFERS - This lease may be transferred in whole or in part to any person, association or corporation qualified to hold such lease interest.

(b) RELINQUISHMENT - The lessee may relinquish in writing at any time all rights under this lease or any portion thereof as provided in the regulations. Upon lessor's acceptance of the relinquishment, lessee shall be relieved of all future obligations under the lease or the relinquished portion thereof, whichever is applicable.

Sec. 9. DELIVERY OF PREMISES, REMOVAL OF MACHINERY, EQUIPMENT, ETC. - At such time as all or portions of this lease are returned to lessor, lessee shall deliver up to lessor the land leased, underground timbering, and such other supports and structures necessary for the preservation of the mine workings on the leased premises or deposits and place all wells in condition for suspension or abandonment. Within 180 days thereof, lessee shall remove from the premises all other structures, machinery, equipment, tools, and materials that it elects to or as required by the authorized officer. Any such structures, machinery, equipment, tools, and materials remaining on the leased lands beyond 180 days, or approved extension thereof, shall become the property of the lessor, but lessee shall either remove any or all such property or shall continue to be liable for the cost of removal and disposal in the amount actually incurred by the lessor. If the surface is owned by third parties, lessor shall waive the requirement for removal, provided the third parties do not object to such

waiver. Lessee shall, prior to the termination of bond liability or at any other time when required and in accordance with all applicable laws and regulations, reclaim all lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities on the leased lands, and reclaim access roads or trails.

Sec. 10. PROCEEDINGS IN CASE OF DEFAULT - If lessee fails to comply with applicable laws, now existing regulations, or the terms, conditions and stipulations of this lease, and the noncompliance continues for 30 days after written notice thereof, this lease shall be subject to cancellation by the lessor only by judicial proceedings. This provision shall not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver shall not prevent later cancellation for the same default occurring at any other time.

Sec. 11. HEIRS AND SUCCESSORS-IN-INTEREST - Each obligation of this lease shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 12. INDEMNIFICATION - Lessee shall indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under this lease.

Sec. 13. SPECIAL STATUTES - This lease is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151-1175), the Clean Air Act (42 U.S.C. 1857 et. seq.), and to all other applicable laws pertaining to exploration activities, mining operations and reclamation.

Sec. 14. SPECIAL STIPULATIONS -

\* The terms and conditions of the production royalties remains as stated in the attached original lease agreement.

\*\* The minimum annual production and minimum royalty is \$10.00 per acre or a fraction thereof as stated in the attached original lease agreement.

## Sec. 14. SPECIAL STIPULATIONS - (Cont.)

THE UNITED STATES OF AMERICA

INCO ALLOTS INTERNATIONAL, INC

Company or Lessee Name

By *By David L. Wadsworth*

(Signature of Lessee)

Chief Legal Officer &amp; Secretary

(Title)

May 5, 1989

(Date)

By

*Edward J. Hartman*

(Signing Officer)

Deputy State Director for Mineral Resources

(Title)

JUN 27 1989

(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

## NOTICE

The Privacy Act of 1974 and the regulations in 43 CFR 2.48(d) provides that you be furnished the following information in connection with information required under the terms of this lease.

AUTHORITY: 30 U.S.C. 181 et seq.; 43 CFR 3500.

PRINCIPAL PURPOSE: The information will be used to verify your compliance with the lease terms and in calculating royalty payments.

ROUTINE USES: (1) Evaluation of the effects of the operations on the environment. (2) Statistical reports to Congress. (3)(4) and (5) Information from the record and/or the record may be released or transferred to appropriate Federal, State or local agencies in allocating mineral revenue, for investigations of energy programs; and when relevant to civil, criminal or regulatory investigations or prosecutions, as well as routine regulatory responsibility.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of this information is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires us to inform you that:

This information is being collected for use in calculating royalty payments and in verification of compliance with lease terms. Response to this request is mandatory only if the lessee elects to mine, extract, remove and/or dispose of the leased deposits.





IN REPLY REFER TO:

# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Milwaukee District Office  
Division of Solid Minerals  
901 Pine Street  
Rolla, Missouri 65401

DSM:JPR

3500

MNES 1352

MNES 1353

April 12, 1999

### Memorandum

To: State Director (932.34)

From: Assistant Field Manager for Solid Minerals, Rolla

Subject: Renewal of Preference Right Leases MNES-1352 and MNES-1353

By memorandum received April 5, 1999, you requested our recommendation on the subject lease renewals.

We have no objection to Preference Right Leases MNES-1352 and MNES-1353 being renewed for ten years, as stipulated within the lease language.

*Vincent N. Vogt*



United States  
Department of  
Agriculture

Forest  
Service

Eastern Region



310 West Wisconsin Ave.  
Suite 580  
Milwaukee, WI 53203

File Code: 2820-2  
Route To:

Date: **JUL 18 2003**

Subject: Renewal of Preference Right Leases MNES 1352 and MNES 1353

To: Director, Eastern States Office, Bureau of Land Management

The Forest Service has no objection to the renewal of the above preference right leases.

The terms, conditions and stipulations have been reviewed, and it has been determined that they are sufficient to protect the resources of the United States.

Any and all operations are subject to the Forest Plan and its amendments, and the approval of an operating plan by the authorized officer. In addition, any and all operations will be subject to an analysis under the National Environmental Policy Act prior to the commencement of any operations.

RANDY MOORE  
Regional Forester

cc:

Paul Stockinger  
Randy Rabideaux  
Stuart Behling  
Cleo B Ashworth  
Tim Best  
John Romito

BUREAU OF LAND MANAGEMENT  
DIVISION OF SOLID MINERALS

JUL 23 2003

ROLLA, MISSOURI 65401



is your RETURN ADDRESS completed on the reverse side:

**SENDER:**

- ☐ Complete items 1 and/or 2 for additional services.  
Complete items 3, 4a, and 4b.  
☐ Print your name and address on the reverse of this form so that we can return this card to you.  
☐ Attach this form to the front of the mailpiece, or on the back if space does not permit.  
☐ Write "Return Receipt Requested" on the mailpiece below the article number.  
☐ The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address  
2. ☐ Restricted Delivery

3. Article Addressed to:

AMERICAN COPPER  
+ NICKEL CO  
922 19th ST  
GOLDEN CO 80401 MNES  
1352  
1353  
ADDL REQR PRL RENEW

4a. Article Number

7000 0600 0027 49727517

4b. Service Type

- ☐ Registered ☒ Certified  
☐ Express Mail ☐ Insured  
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

5. Received By: (Print Name)

JOY K. MOSELEY

6. Signature (Addressee or Agent)

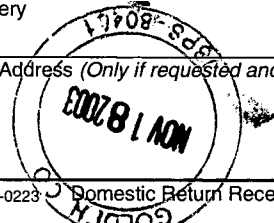
JOY K. MOSELEY

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1994

102595-99-B-0223 Domestic Return Receipt

Thank you for using Return Receipt Service.



UNITED STATES POSTAL SERVICE



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Print your name, address, and ZIP Code in this box. •

**Bureau of Land Management  
Eastern States  
7450 Boston Boulevard  
Springfield, VA 22153**

31



3500(932.34)TDB  
MNES 1352  
MNES 1353

CERTIFIED NO. 7000 0600 0027 4972 7517

NOV 12 2003

DECISION

American Copper and Nickel Co.	:	Hardrock
922 19 <sup>th</sup> Street	:	Preference Right Leases
Golden, Colorado 80401	:	

Additional Requirements to be Met

We received your renewal applications for the subject Preference Right Leases. The Bureau of Land Management has recommended that these leases be renewed. Additional requirements must be met in order to continue processing your applications for renewal.

The enclosed Preference Right Lease forms must be signed by an authorized officer of American Copper and Nickel Company and returned to this office.

You have thirty days upon receipt of this decision to return the above documents. If additional time is needed to do so, a written request for an extension of time will be considered. If you have questions regarding the above, do not hesitate to call Timothy D. Best at (703) 440-1527.

**Ida V. Doup**

Ida V. Doup  
Chief, Branch of Use Authorization  
Division of Resources Planning,  
Use and Protection

Enclosure (8pp)

Bcc: 930 RF:MFO/Rolla:FS-9  
930:RF:TDBest:db:10/27/2003:1527:(ADDLRQMT-PREF-RGT-LEASE)



# United States Department of the Interior

## OFFICE OF THE SOLICITOR

1849 C STREET N.W.  
WASHINGTON, DC 20240

M-37036

**MAR - 8 2016**

### Memorandum

To: Director, Bureau of Land Management

From: Solicitor

Subject: Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-01353)

The Bureau of Land Management (BLM) has asked whether it has the discretion to grant or deny Twin Metals Minnesota's pending application for renewal of two hardrock preference right leases in northern Minnesota.<sup>1</sup> I conclude that Twin Metals Minnesota does not have a non-discretionary right to renewal, but rather the BLM has discretion to grant or deny the pending renewal application.

### Background

On October 21, 2012, Twin Metals Minnesota (TMM) submitted an application to renew two preference right leases (MNES-01352 and MNES-01353) for lands that are located near the southern boundary of the Boundary Waters Canoe Area Wilderness in northern Minnesota.<sup>2</sup>

The two leases at issue are located on acquired Weeks Act lands, as well as National Forest System lands reserved from the public domain and managed by the United States Forest Service. The Secretary's authority, delegated to the BLM, for mineral disposition on the acquired lands is in section 402 of Reorganization Plan No. 3 of 1946, 60 Stat. 1097, 1099-1100, and 16 U.S.C. § 520, which governs mineral disposition on Weeks Act lands. The Secretary's authority, delegated to the BLM, for mineral disposition on reserved National Forest System lands in Minnesota is in 16 U.S.C. § 508b.

The BLM originally awarded the leases on June 1, 1966, for a primary term of twenty years, with the possibility of three ten-year renewals.<sup>3</sup> On May 14, 1986, the lessee timely applied for a renewal.<sup>4</sup> After receiving legal advice from the Office of the Solicitor that the lease terms allowed for a renewal, the BLM granted a renewal of the leases on July 1, 1989, for a period of

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<sup>1</sup> This memorandum does not address issues related to National Environmental Policy Act compliance or any other legal issues surrounding these leases.

<sup>2</sup> The Chippewa in Minnesota have hunting, fishing, and other usufructuary rights in the northeast portion of the state of Minnesota under the 1854 Treaty of LaPointe. Treaty with the Chippewa, 10 Stat. 1109 (1854).

<sup>3</sup> See 1966 leases §§ 1(a), 5.

<sup>4</sup> The regulations at 43 C.F.R. § 3522.1-1 (1985) state that renewal applications "must be filed in the appropriate land office within 90 days prior to the expiration of the lease term." The lessee filed an application for extension of the term of the leases on May 14, 1986—30 days before the end of the primary twenty-year term on June 14, 1986, which was "within 90 days" of the lease expiration. Consequently, the renewal application was timely filed.

ten years.<sup>5</sup> TMM timely applied for a second renewal on March 15, 1999. The BLM renewed the leases on January 1, 2004.<sup>6</sup> The 2004 leases state that they are for a period of ten years, “with preferential right in the lessee to renew for successive periods of 10 years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.” On October 21, 2012, TMM timely applied to renew the leases once more.<sup>7</sup> TMM has been conducting exploration activities on the leaseholds based on the 2004 leases while the BLM considers TMM’s 2012 renewal application.

Under the original 1966 lease terms, as discussed more fully below, the lessee was required to commence production within the twenty-year primary term to qualify for three renewals of right. The leases provided that if there was no production at the end of the primary term, the leases would end unless the Secretary granted a lease renewal to extend the time to commence production.<sup>8</sup>

Although there has been no production, the operator held the leases under production waivers for five years and then through payment of minimum royalties in lieu of production payments for the rest of the time, consistent with the provisions of the 1966 leases that were incorporated by reference in the 2004 leases. Those provisions stated that, beginning after the tenth year of the primary term, the lessee is required to mine a quantity of minerals such that the royalties would be equal to \$5 per annum per acre for the primary term and \$10 per annum per acre during each renewal or, in lieu of that production, pay royalties equal to the minimum royalty. *See* 1966 leases § 2(c) (incorporated into section 14 of the 2004 leases). Section 2(c) of the 1966 leases allowed the lessor to waive, reduce, or suspend the minimum royalty payment for reasonable periods of time in the interest of conservation or when such action does not adversely affect the interest of the United States in accordance with 43 C.F.R. § 3222.6-2. *Id.*

According to the BLM’s records, the BLM relied on section 2(c) of the 1966 leases to grant individual waivers of production and minimum royalties for each of the first five lease years after the tenth year of the leases, beginning on June 1, 1976, and ending May 31, 1981, while the State of Minnesota was conducting environmental studies on the proposed mining operations,

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<sup>5</sup> The three-year time period between the date on which the lessee filed for the first ten-year lease renewal and the date on which the lease renewal was approved appears to have been due to BLM’s consideration of the lessee’s minimum royalty waiver request, coordination efforts between the United State Forest Service and the BLM regarding the Forest Service approval for the renewals, and the BLM’s consideration regarding the terms of the lease renewal.

<sup>6</sup> The lessee’s application for a second renewal on March 15, 1999 was 109 days before the end of the first lease renewal on July 1, 1999. The regulations in force in 1999 state that “[a]n application for lease renewal shall be filed at least 90 days prior to the expiration of the lease term.” 43 C.F.R. § 3528.1 (1998). Consequently, the 1999 renewal application was timely filed. The time period between the lessee’s filing of the second renewal application in March 1999 and the BLM’s approval of the lease renewal in January 2004 appears to have been due to coordination efforts between the United States Forest Service and the BLM, as well as the BLM’s internal review process.

<sup>7</sup> The 2012 renewal application was submitted 438 days before the end of the second renewal on January 1, 2014. The timing requirements for filing a renewal application in the current regulations are the same as those in the regulations that were in force in 1999. *Id.* § 3511.27 (2015). Consequently, the 2012 application was timely filed.

<sup>8</sup> Section 5 of the 1966 leases contains definite conditions for allowing such an extension, i.e., in the interest of conservation or upon a satisfactory showing by the lessee that the lease cannot be successfully operated at a profit or for other reasons.

which prevented INCO Alloys International, Inc. (TMM's predecessor in interest at the time of BLM's waiver decision), from developing the leases.<sup>9</sup>

The BLM records show that INCO filed another production and minimum royalty waiver request on June 26, 1985, for the period of July 1, 1981, to June 30, 1986. In response, the BLM issued a decision on January 28, 1987, finding that Minnesota had completed its environmental studies in 1979 and that INCO had not filed any mining applications or royalty waiver applications since 1981. The decision stated that "there is no evidence that INCO International is diligently working towards the development of these leases." Based on the BLM's conclusion that INCO had not met the obligations of the leases, the agency denied the production and royalty waiver request. The decision also notified the lessee that all delinquent payments were due before the BLM could process the first lease renewals at that time.<sup>10</sup> Although the BLM's records show that INCO failed to timely pay the annual rentals and minimum royalties in lieu of production for the lease years from June 1, 1981, to May 31, 1985 (a four-year period), once INCO received notice from the BLM about the delinquency, INCO paid the fees for all four years. Consequently, the royalty payment records of the Office of Natural Resources Revenue (ONRR) show that TMM and its predecessors paid the minimum royalties in lieu of production for each of the delinquent years—1981 to 1985. The ONRR records also show that TMM paid the minimum royalty in lieu of production payments from 1986 to the present.

In preparing to respond to the 1985 royalty waiver request, the BLM sought legal advice from the Solicitor's Office, which led to a 1986 legal memorandum regarding the use of one of the three renewals identified in section 5 of the 1966 leases to extend the time to commence production. This 1986 Associate Solicitor's Opinion is discussed below in this memorandum.<sup>11</sup>

As to the rental payments, the regulations in effect before 1986 provided that the "rental paid for any year shall be credited against any royalties for that year." 43 C.F.R. § 3503.3-1(b)(5) (1985). Beginning in 1999, the regulations have provided that the Minerals Management Service (now ONRR) "will credit your lease rental for any year against the first production royalties or minimum royalties . . . as the royalties accrue under the lease during that year." *Id.* § 3504.16(e) (2014). The ONRR records show that TMM has paid the rentals and those payments have been recouped for payment of a portion of the minimum royalty payments.

#### Relevant Lease Provisions

Three provisions in the 2004 leases are pertinent to whether TMM has a non-discretionary right to renewal:

##### Part I. Lease Rights Granted:

This Lease Renewal entered into by and between the United States of America, through the Bureau of Land Management, hereinafter called lessor, and American Copper &

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<sup>9</sup> These annual waivers, beginning in June 1976 and ending in May 1981, served to waive the production and minimum royalty requirements of the leases for that time period. The notification letters that BLM sent to the lessee for each of these waivers state that a waiver of production and minimum royalty requirements is granted and do not state that the lease term is being extended for the period of the suspension.

<sup>10</sup> As noted above, the lessee applied for its first lease renewal in May 1986. Under the 1966 lease terms, the twenty-year primary term was due to expire in June 1986.

<sup>11</sup> See *infra* p. 12.



Nickel Company, 922 19<sup>th</sup> Street, Golden, Colorado, 80401, hereinafter called lessee, is effective Jan-1 2004, for a period of 10 years, *Sodium, Sulphur, Hardrock* – with preferential right in the lessee to renew for successive periods of 10 years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period.

Part I, Section 2:

Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to explore for, drill for, mine, extract, remove, beneficiate, concentrate, or otherwise process and dispose of the copper deposits nickel & associated minerals hereinafter referred to as “leased deposits,” in, upon, or under the following described lands: . . . .

Part II, Section 14. Special Stipulations:

\* The terms and conditions of the production royalties remains as stated in the attached original lease agreement [referring to the 1966 lease].

\*\* The minimum annual production and minimum royalty is \$10.00 per acre or a fraction thereof as stated in the attached original lease agreement [referring to the 1966 lease].

Because the provisions of the 2004 leases govern for the reasons set forth below, the renewal provisions of the 1966 leases are not applicable. Nevertheless, to provide a comprehensive analysis, the renewal provisions of the 1966 leases are discussed in the analysis that follows.

The three relevant provisions in the 1966 leases are:

Introductory clause:

This lease entered into . . . between the United States of America, as Lessor, through the Bureau of Land Management, and [TMM's predecessor], as Lessee, pursuant to the authority set out in, and subject to, Section 402 of the President's Reorganization Plan No. 3 of 1946, 60 Stat. 1099, and the Act of June 30, 1950, 64 Stat. 311, and to all regulations of the Secretary of the Interior now in force when not inconsistent with any of the provisions herein.

Section 1(a):

Rights of Lessee. In consideration of the rents and royalties to be paid and conditions and covenants to be observed as herein set forth the Lessor grants to the Lessee, subject to all privileges and uses heretofore duly authorized and prior valid claims, the exclusive right to mine, remove, and dispose of all the copper and/or nickel minerals and associated minerals . . . in, upon, or under [the described lands] . . . together with the right to construct and maintain thereon such structures and other facilities as may be necessary or convenient for the mining, preparation, and removal of said minerals, for a period of twenty (20) years with a right in the Lessee to renew the same for successive

periods of ten (10) years each in accordance with regulation 43 C.F.R. § 3221.4(f) and the provisions of this lease.

#### Section 5:

Renewal Terms. The Lessor shall have the right to reasonably readjust and fix royalties payable hereunder at the end of the primary term of this lease and thereafter at the end of each successive renewal thereof unless otherwise provided by the law at the time of the expiration of any such period, and to readjust other terms and conditions of the lease, including the revision of or imposition of stipulations for the protection of the surface of the land as may be required by the agency having jurisdiction thereof; provided, however, that the Lessee shall have the right to three successive ten-year renewals of this lease with any readjustment in the royalties payable hereunder limited to that hereinafter provided and with no readjustment of any of the other terms and conditions of this lease unless at the end of the primary term of this lease the Lessee shall not have begun production, either hereunder or under the companion lease granted to the Lessee this day. The Secretary of the Interior may grant extensions of time for commencement of production in the interest of conservation or upon a satisfactory showing by the Lessee that the lease cannot be successfully operated at a profit or for other reasons, and the Lessee shall be entitled to renewal as herein provided without readjustment except of royalties payable hereunder if at the end of the primary or renewal period such an extension shall be in effect, but the Lessee shall not be entitled to subsequent such renewals unless it shall have begun production within the extended time. If the Lessee shall be entitled to renewal without readjustment except of royalties payable hereunder, the Secretary of the Interior may in his discretion increase the royalty rate prescribed in subsection (b) of Section 2 up to, but not exceeding (i) 5% during the first ten-year renewal period, (ii) 6% during the second ten-year renewal period, and (iii) 7% during the third ten-year renewal period. The extent of readjustment of royalty, if any to be made under this section shall be determined prior to the commencement of the renewal period.

#### Analysis

The renewal rights of TMM are governed by the applicable provisions of leases MNES 01352 and MNES 01353. At this time, the 2004 renewal leases are in effect, and they use the BLM's standard renewal language that has been in place since the 1980s. In particular, the 2004 lease renewal terms grant the "preferential right in the lessee to renew for successive periods of ten years under such terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the expiration of any period." The Department has consistently interpreted this provision as not entitling the lessee to an automatic right of renewal: "This *preferential* right of renewal does not *entitle* the lessee to renewal of the lease but 'gives the renewal lease applicant the legal right to be preferred against other parties, should the Secretary, in the exercise of his discretion, decide to continue leasing.'" *Gen. Chem. (Soda Ash) Partners*, 176 IBLA 1, 3 (2008) (emphasis in original) (quoting *Sodium Lease Renewals*, M-36943, 89 Interior Dec. 173, 178 (1982) (1982 Solicitor's Opinion)). The Interior Board of Land Appeals (IBLA) noted further that the "Secretary may exercise his discretionary authority in renewing a lease in the same manner as in issuing an initial lease." *Id.*

In reaching this conclusion, I have carefully considered TMM's contention that the terms of the 1966 leases govern and require the BLM to renew the leases for a third ten-year term. As discussed below, I have concluded that the terms of the 2004 leases govern and that, in any event, the renewal provisions of the 1966 leases give the BLM discretion regarding whether to renew the leases.

The 2004 leases are each complete, integrated documents that contain all necessary lease terms and are duly signed by the lessee and lessor. The degree to which the original 1966 leases continue in effect are specifically described in the 2004 leases, with two special stipulations that incorporate by reference only two provisions from the 1966 leases. 2004 leases § 14. The first stipulation states that the "terms and conditions of the production royalties remains as stated in the attached original lease agreement." The second states that the "minimum annual production and minimum royalty is \$10.00 per acre or fraction thereof as stated in the attached original lease agreement." Neither of these imported provisions includes the lease renewal provisions of the 1966 leases. Consequently, since at least the time that the BLM and the lessee signed the 2004 lease renewals, the renewal provisions of the 1966 leases have no longer applied and the only renewal terms are those described in the 2004 leases, as quoted in the previous paragraph. Based on that well understood and unambiguous renewal language, the BLM has the same discretionary authority in considering whether to renew the 2004 leases as it had in issuing the initial 1966 leases.

In a recent memorandum to me from TMM's legal counsel,<sup>12</sup> TMM asks the BLM to ignore the plain renewal terms of the 2004 leases and instead apply the renewal provisions of the 1966 leases. TMM relies on extrinsic evidence, placing heavy reliance on the circumstances leading up to the earlier 1989 renewal, which TMM asserts provide evidence that the BLM intended to simply renew the leases under the exact same terms of the 1966 leases. TMM further asserts that the 2004 renewal, because it was executed using the same forms, must also have intended to renew the 1966 leases without any change in terms.

As explained below in the discussion of the 1966 lease terms, the 1989 and 2004 renewals differ from each other because the BLM's discretion was limited in 1989 but not in 2004. In particular, the 1989 renewal served as a one-time extension of time for commencement of production, as authorized under section 5 of the 1966 leases. But section 5 also states that if an extension is granted, the renewal must be on unaltered terms (other than royalty). Accordingly, under section 5 of the 1966 leases, the 1989 renewal was effectively a ten-year extension of the 1966 lease terms, and the use of standard renewal forms in 1989 could have no effect other than to extend the leases for ten years to allow for commencement of production. But because no production commenced during that extension, TMM was not entitled to any subsequent production extensions or renewals under the 1966 lease terms, so the BLM had discretion in 2004 over both whether to renew and the terms of any such renewal. The executed renewal in 2004 therefore has operative effect, and the plain language of the 2004 leases actually executed by the parties must be given effect. There is nothing in the duly executed 2004 leases that states that the 1966 terms somehow govern over the terms expressly set out in the 2004 leases.

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<sup>12</sup> Memorandum from I. Daniel Colton, Partner, Dorsey & Whitney LLP, received under a cover letter dated January 26, 2016, to me from Kevin L. Baker, Director, Legal Affairs, Twin Metals Minnesota, LLC.

TMM's reliance on extrinsic evidence to attempt to negate the 2004 lease terms does not comply with the law of contracts. In the absence of ambiguity in the relevant lease provision, it is improper to rely on extrinsic evidence. *See Coast Fed. Bank, FSB v. United States*, 323 F.3d 1035, 1040 (Fed. Cir. 2006) (en banc) ("If the provisions are clear and unambiguous, they must be given their plain and ordinary meaning, and we may not resort to extrinsic evidence to interpret them." (internal quotation marks and citation omitted)); *see also Shell Oil Co. v. United States*, 751 F.3d 1282, 1295 (Fed. Cir. 2014) (improper for government to rely on extrinsic evidence when contract provision is unambiguous); *Thoman v. Bureau of Land Mgmt. (on recon.)*, 155 IBLA 266, 267 (2001) ("If the contract language is clear and unambiguous, the terms of the agreement are given plain meaning and the intent of the parties and the interpretation of the agreement will be determined from the four corners of the document alone." (internal citations omitted)). Under this objective law of contracts, the subjective intent of the parties is not relevant unless there is fraud, duress, or mutual mistake, none of which is alleged by TMM. *See Armenian Assembly of Am., Inc. v. Cafesjian*, 758 F.3d 265, 278 (D.C. Cir. 2014) ("[T]he 'objective' law of contracts . . . generally means that 'the written language embodying the terms of an agreement will govern the rights and liabilities of the parties, [regardless] of the intent of the parties at the time they entered into the contract, unless the written language is not susceptible of a clear and definite undertaking, or unless there is fraud, duress, or mutual mistake.'" (alteration in original) (citations omitted)).

In this case, there is nothing ambiguous with the renewal provision contained in the 2004 leases: there is no conflicting renewal provision referenced elsewhere in the 2004 leases and the provision has a longstanding and well established meaning. While TMM has asserted that the "preferential right" to renew is ambiguous because it is susceptible of more than one meaning, that argument is without merit.<sup>13</sup> TMM misinterprets the 1982 Solicitor's Opinion, which held that the preference right to renew "gives the renewal lease applicant the legal right to be preferred against other parties should the Secretary, in the proper exercise of his discretion, decide to continue leasing." 1982 Solicitor's Opinion, 89 Interior Dec. at 178. In reaching this conclusion, the Solicitor included a discussion of the meaning of "preference right leases." That discussion focused on the rights gained in the *initial* leasing decision, and distinguished between "entitlement" leases, which are leases to which an applicant is by statute entitled to receive if it meets statutory criteria, and true "preference right leases," which are issued only if the Secretary decides to lease. *See id.* Based on this discussion, TMM asserts it is ambiguous whether its leases are entitlement leases or preference right leases. Even if this distinction altered renewal rights, which is an issue that does not need to be addressed for purposes of this memorandum, there is no ambiguity in this case. Neither of the statutory authorities under which the leases are issued—section 402 of Reorganization Plan No. 3 of 1946, 60 Stat. 1097, 1099-1100, and 16 U.S.C. § 508b—creates an entitlement to a lease or otherwise mandates the issuance of leases. To the contrary, both authorities expressly condition leasing on surface owner consent (in this instance the discretion of the Forest Service) and thus are discretionary. In short, there is no ambiguity, and the renewal provisions in the 2004 leases provide the BLM with discretion to decide whether to renew the leases.

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<sup>13</sup> A lease is not ambiguous merely because the parties disagree on the correct interpretation. *Thoman*, 155 IBLA at 267 (citing *Pollock v. Fed. Deposit Ins. Corp.*, 17 F.3d 798, 803 (5th Cir. 1994); *Stichting Mayflower Recreational Fonds v. Newpark Res., Inc.*, 917 F.2d 1239, 1247 (10th Cir. 1990)).

Finally, even if the 1966 lease renewal terms were in effect, they do not prohibit the BLM from exercising its discretion to decide whether to renew the leases. Section 1(a) of the 1966 leases granted to the lessee “the exclusive right to mine, remove, and dispose of all the copper and/or nickel minerals and associated minerals . . . .” It also provided that renewal of the leases beyond the primary term is subject to 43 C.F.R. § 3221.4(f) (1966) and the provisions of the lease. Section 3221.4(f) provides that the lessee “will be granted a right of renewal for successive periods, not exceeding 10 years each, under such reasonable terms and conditions as the Secretary of the Interior may prescribe, including the revision of or imposition of stipulations for the protection of the surface of the land as may be required by the agency having jurisdiction thereover.” Based on this regulation, the BLM included a conditional renewal provision in section 5 of the 1966 leases.

Section 5 of the 1966 leases describes both the conditions with which the lessee must comply to establish a right to renew the lease and the limitations on revisions to the lease terms when the lessee does have a right to renewal:

**Renewal Terms.** The Lessor shall have the right to reasonably readjust and fix royalties payable hereunder at the end of the primary term of this lease and thereafter at the end of each successive renewal thereof unless otherwise provided by the law at the time of the expiration of any such period, and to readjust other terms and conditions of the lease, including the revision of or imposition of stipulations for the protection of the surface of the land as may be required by the agency having jurisdiction thereover; **provided, however, that the Lessee shall have the right to three successive ten-year renewals of this lease with any readjustment in the royalties payable hereunder limited to that hereinafter provided and with no readjustment of any of the other terms and conditions of this lease unless at the end of the primary term of this lease the Lessee shall not have begun production, either hereunder or under the companion lease granted to the Lessee this day. The Secretary of the Interior may grant extensions of time for commencement of production in the interest of conservation or upon a satisfactory showing by the Lessee that the lease cannot be successfully operated at a profit or for other reasons, and the Lessee shall be entitled to renewal as herein provided without readjustment except of royalties payable hereunder if at the end of the primary or renewal period such an extension shall be in effect, but the Lessee shall not be entitled to subsequent such renewals unless it shall have begun production within the extended time.** *If the Lessee shall be entitled to renewal without readjustment except of royalties payable hereunder, the Secretary of the Interior may in his discretion increase the royalty rate prescribed in subsection (b) of Section 2 up to, but not exceeding (i) 5% during the first ten-year renewal period, (ii) 6% during the second ten-year renewal period, and (iii) 7% during the third ten-year renewal period.* The extent of readjustment of royalty, if any to be made under this section shall be determined prior to the commencement of the renewal period.

1966 leases § 5 (emphases added). As explained more fully below, since at least 1986, the Solicitor’s Office has interpreted section 5 to mean that, even if the Secretary can and does, as a matter of discretion, renew the lease to extend the time to commence production, there is no right

to a further renewal when production<sup>14</sup> has not begun at the end of the first renewal-extension period.

The opening segment of the first sentence of section 5 describes the BLM's right to readjust the royalties and other terms and conditions at the renewal stage. This provision means that, as a general rule, if renewing the lease, the BLM is allowed to readjust not only the lease royalties but also other terms and conditions at the renewal stage, including stipulations to protect the surface.

The second segment of the first sentence following the semi-colon (highlighted in **bold** above) is a proviso that allows for three successive ten-year renewals, but conditions the lessee's right to those renewals on the lessee beginning production before the end of the primary term of the lease. The key conditioning language is at the end of the first sentence, as highlighted below:

provided, however, that the Lessee shall have the right to three successive ten-year renewals of this lease with any readjustment in royalties payable hereunder limited to that hereinafter provided and with no readjustment of any of the other terms and conditions of the lease **unless at the end of the primary term of this lease the Lessee shall not have begun production, either hereunder or under the companion lease granted to the Lessee this day.**

This highlighted clause, which begins with "unless," qualifies the very right to renew and not merely, as the company has asserted, the phrase describing the level of discretion the BLM has to readjust the other terms and conditions of the leases upon renewal. In other words, the proper meaning of the proviso is clear when the last clause is placed next to the provision it actually qualifies: "[T]he Lessee shall have the right to three successive ten-year renewals of this lease . . . unless at the end of the primary term of this lease the Lessee shall not have begun production, either hereunder or under the companion lease granted to the Lessee this day."

This conclusion is evident by the construction of the proviso. The two readjustment limitations are tied together and modify the "right to three successive ten-year renewals" language. The use of the conjunctive "and" between the two readjustment phrases ("with any readjustment in royalties payable hereunder limited to that hereinafter provided **and** with no readjustment of any of the other terms and conditions of the lease") ties them together as a single modifier to the right-to-renew language. Accordingly, the production requirement set out as the last clause of the proviso cannot merely qualify the readjustment phrases, as contended by TMM, but must apply to the overall right of renewal. In this way the proviso makes any non-discretionary renewal contingent on the lessee meeting the production requirement first, and then the conditions of that renewal regarding royalties and lease terms are specified in the readjustment phrases.

This conclusion is further reinforced by the second sentence of section 5 (the portion of section 5 underlined above). That sentence has three clauses. The first clause provides that the BLM has

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<sup>14</sup> None of the Department's solid minerals leasing regulations—including those in force at the time of the 1986 Solicitor's Opinion, those promulgated immediately thereafter, and those currently in force—expressly define the term "production." However, the rights granted in section 1 of the 1966 leases are described as mining, removing, and disposing of the copper and/or nickel minerals and associated minerals in, upon, or under the leased lands. These activities may be viewed to reasonably describe production.

the discretion to grant the lessee an extension beyond the primary term to begin production, if doing so would be in the interest of conservation or the lessee cannot operate the lease at a profit or for other reasons. The second clause states that, if an extension is granted, the lessee is entitled to a renewal in which the only revision allowed is to the royalties provision. These two clauses allow the lessee to use the first renewal as an extension time period to begin production. The third and final clause of the sentence, however, limits this right to a renewal if there is no production by the end of the extension: “but the Lessee shall not be entitled to subsequent such renewals unless it shall have begun production within the extended time.” This final clause reinforces the preceding sentence’s condition precedent that there must be production before the lessee has a “right” to subsequent renewals. The second sentence therefore again makes production a precondition for any right to renew and disallows the lessee from obtaining a “right” to a renewal if no production has occurred during the primary term or an extension that the Secretary may grant for commencement of production.

The third sentence of section 5 (the portion of section 5 in *italics* above) describes the degree to which the BLM may readjust the royalty if the lessee is entitled to a “limited adjustment” lease renewal under the first sentence, i.e., the Lessee is “entitled to renewal without readjustment except of royalties payable hereunder . . . .” But without production, there would be no such entitlement.

Taken as a whole, the language of section 5 does not give the lessee a non-discretionary right to three successive renewals. Rather, production is the condition precedent for the lessee to obtain any lease renewals of right. There is no right of renewal if there has been no production before the end of the primary term or at the end of any renewal that the BLM grants to extend the time for the lessee to commence production. The fact that the lease terms expressly state that subsequent renewals of right are not available if no production occurs during any extension the BLM may grant for commencement of production reiterates the linkage between renewals of right and production. It would be incongruent to link only the benefit of unchanged lease terms to production, while leaving the lease renewal and royalty readjustment terms unaffected by a lack of production. Such arbitrary line drawing would create little incentive for the lessee to develop the minerals, which is the entire purpose for these mineral leases. In contrast, when production is a condition precedent for lease renewals, the lease renewal provision effectively serves as a minimal due diligence provision for the lessee.<sup>15</sup>

TMM asserts a different interpretation though. TMM reads the proviso of the first sentence of section 5 to grant the lessee a non-discretionary right of renewal, with such right of renewal limited only to royalty readjustment and with no readjustment of any other lease terms. TMM also reads the production requirement in the provision—“unless at the end of the primary term of

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<sup>15</sup> We note that section 14 of the 1966 leases does not change this conclusion. Section 14 sets forth the royalty rates that would apply in the second ten years of the primary lease term and in the first, second, and third ten-year renewal periods, if the lessee were to sink a shaft for underground exploration or development or otherwise begin commercial development within five years of obtaining the rights and authorizations for construction, operation and maintenance of the leased premises. According to TMM, in 1967, its predecessor in interest, INCO, sunk an 1100-foot shaft for exploration and development on lease MNES 01352. TMM asserts that section 14 contractually entitles it to these royalty rates during each of three renewal periods. However, nothing in section 14 provides for a non-discretionary right of renewal. Rather, section 14 merely describes the royalty rate that would apply during the first three ten-year renewals. It does not grant those renewals and does not state that sinking an exploration or development shaft entitles the lessee to those renewals.

this lease the Lessee shall not have begun production”—to modify only the readjustment limitation language, not the right to renewal language. Under TMM’s interpretation of the provision, if the lessee begins production within the primary term, the BLM may make only limited royalty adjustments, as provided in the leases, and no adjustments to any other lease terms. If, on the other hand, the lessee fails to begin production within the primary term, according to TMM, the lack of production negates only the readjustment limitations in the provision, and the BLM would be able to impose greater royalty readjustments and readjust other terms and conditions of the leases upon renewal. In other words, under the company’s reading, a right to three successive ten-year renewals begins immediately following the primary terms regardless of whether production has occurred, and section 5 only affects the parameters for the BLM’s readjustment of the lease terms in those non-discretionary three renewals.

In addition to being unsupported by the terms of the proviso as described above, TMM’s interpretation would allow it to hold the leases without any need to produce minerals in paying quantities for at least fifty years, and longer in this instance given the time to process the lease renewals. This interpretation not only conflicts with the plain wording of the 1966 lease terms but also is contrary to the very intent of the applicable statutory framework under which the Secretary may authorize mineral development with an expectation of revenues, not speculative land holdings. *See* Reorganization Plan No. 3 of 1946 § 402, 60 Stat. 1097, 1099-1100; 16 U.S.C. § 520. Interpreting the leases to allow for three non-discretionary renewals covering a thirty-year time span without the occurrence of the very underlying activity for which the leases are issued in the first place would defeat the purpose of entering into the lease. Such an interpretation would allow for the speculative holding of mineral rights, which is contrary to Congress’s intent to encourage productive mineral development while also providing a fair return to the American taxpayer.

Our interpretation that section 5 requires the lessee to begin production to obtain the benefit of any non-discretionary right of renewal is not only mandated by the lease terms, but is consistent with the regulation regarding renewal applications cited in the lease. Section 1(a) of the 1966 leases requires the renewals to be in accordance with 43 C.F.R. § 3221.4(f) (1966), which in turn requires that renewal applications “must be filed in a manner similar to that prescribed for extension of a prospecting permit in § 3221.3(a).” Under 43 C.F.R. § 3221.3(a), a prospector must show that he or she has “diligently performed prospecting activities” to support an application for an extension of a prospecting permit.<sup>16</sup> Allowing for the difference between a prospecting permit application and a lease renewal application, § 3221.3(a) requires that the lease renewal application include a showing of diligence in performing the lease activities (rather than the prospecting activities), which are reasonably viewed, consistent with the rights granted in section 1 of the lease terms, as mining, removing, and disposing of the copper and/or nickel minerals and associated minerals—i.e., production. Consequently, by stating that any renewals must be “in accordance with 43 C.F.R. § 3221.4(f),” the lease terms again identified production as the baseline for obtaining a renewal of right. Based on the lease terms as a whole, and because there has been no production during the primary term or the succeeding extensions through lease renewals that the BLM has granted, TMM has not satisfied the condition precedent

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<sup>16</sup> Under 43 C.F.R. § 3221.3(a) (1966), in addition to making a show of diligence, the applicant must file an application in triplicate within ninety days before the expiration date of the lease term and must pay a filing fee.



for obtaining a renewal of right and, therefore, the BLM has discretion to make a decision regarding whether to renew the leases even if the 1966 renewal terms were in effect.

In addition, the Solicitor's Office has already concluded that the BLM is not required to renew the 1966 leases as a matter of right if there has been no production. In 1986, the Associate Solicitor for the Division of Energy and Resources sent a memorandum to the Deputy State Director for the BLM Eastern States Office responding to three questions from the Deputy State Director.<sup>17</sup> The first question was whether it was possible to grant lease renewals (for the same leases that are at issue here) when the leases had never been in production. In response, the Associate Solicitor examined the terms of the lease to determine whether or not lack of production precludes extending the lease term. The Associate Solicitor then relied on the second sentence of section 5 (the portion of section 5 underlined above) to conclude that, while the leases may be extended for a period not exceeding ten years even though production has not occurred, if production does not occur during the period of extension, "no further extensions will be allowed in accordance with the terms of the lease." Consistent with this legal advice and the provisions of section 5 of the 1966 leases, the BLM granted a ten-year extension by renewing these two leases in 1989.

As noted above, the BLM also renewed the leases for a second ten-year period in 2004. Because no production had occurred by that time, the BLM's decision to renew the leases in 2004 was discretionary. The BLM's decision to renew the leases in 2004 does not impede the BLM from again exercising discretion regarding the lessee's application for a third renewal of the leases, particularly where this office has previously concluded that the agency need not allow additional pre-production renewals.<sup>18</sup>

It should be noted that the lessee's payment of minimum royalties in lieu of production does not alter the foregoing analysis.<sup>19</sup> The payment of minimum royalties is certainly one incentive to produce that was imposed by the 1966 leases, but that incentive worked in tandem with the one created by the leases' production precondition for mandatory renewals. The second incentive

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<sup>17</sup> See Memorandum from Associate Solicitor, Energy and Resources, signed by Kenneth G. Lee, Assistant Solicitor, Branch of Eastern Resources, to Deputy State Director, Mineral Resources, Eastern States Office, Bureau of Land Management, "Application for Minimum Royalty Waiver Submitted by INCO Alloys International, Incorporated for Leases ES 01352 and ES 01353" (Apr. 2, 1986) (Attached).

<sup>18</sup> TMM has made no showing in its pending renewal application under 43 C.F.R. § 3221.4(f) (1966) that would entitle it to a third and final renewal under section 5 of the 1966 leases. TMM has never begun production. TMM's predecessor, INCO, sunk a development shaft and conducted bulk sampling, but neither of those actions qualifies as beginning production. Without any showing of diligence in mining, removing, or disposing of the copper, nickel, and associated minerals, and without beginning production, TMM is not entitled to any further non-discretionary ten-year renewals. TMM has also asserted that the Department of the Interior is prohibited by 30 U.S.C. § 184(h)(2), as well as the Department's regulations at 43 C.F.R. § 3514.40 (2015), from "cancelling" TMM's interest in the leases at issue as TMM is a bona fide purchaser. But the cancellation regulations have no applicability where, as here, the decision is whether to renew a lease. Were BLM to exercise its discretion to deny the lease renewal application, it would not be cancelling the leases, as contemplated by 30 U.S.C. § 184(h)(2) and 43 C.F.R. § 3514.40, but rather would be allowing leases that have been in existence for fifty years without production to terminate by their own terms.

<sup>19</sup> The original leases do not mention minimum royalties as a way to fulfill the production requirement. And section 2(b) of TMM's 2004 leases merely provides that "[a]t the request of the lessee, made prior to initiation of the lease year, the authorized officer may allow in writing the payment of a \$3.00 per acre or fraction thereof minimum royalty in lieu of production for any particular lease year."

expired when no production occurred by the end of the extension period granted by the 1989 renewal. While the 2004 renewal leases retain the minimum royalties payment incentive, that fact has no impact on the renewal provision of the 2004 leases. Of course, for the leases to continue in effect during the renewal period, the lessee was required to continue to meet its obligation to pay royalties in lieu of production. However, that payment was and is not equivalent to production and does not somehow entitle the lessee to obtain a lease renewal of right; instead, it merely keeps the leases from terminating during the extension time period the BLM has granted through a lease renewal.

The fact that the payment of royalties in lieu of production cannot be the basis for establishing the right to renew, and cannot be a *de facto* means of extending a lease in perpetuity, is also clear from IBLA case law. In *General Chemical (Soda Ash) Partners*, the IBLA held that minimum royalties in lieu of production have “nothing to do with whether the Secretary, in looking at production from the mine of which the lease is a part at the end of the current lease term, will renew the lease for an additional term.” 176 IBLA at 9. The Board further held, “Moreover, ‘[t]he Secretary has the authority to encourage production and development of federally leased sodium resources *both through minimum development and production requirements and minimum royalties* imposed on each lease.” *Id.* (emphasis in original) (quoting 1982 Solicitor’s Opinion, 89 Interior Dec. at 185). The leases here use precisely both mechanisms to encourage production, albeit not successfully in this instance.

#### Conclusion

For the foregoing reasons, the lessee has not established a non-discretionary right to a third ten-year renewal. Under the governing 2004 lease terms, the BLM has the same discretion regarding whether to renew the lease for a third time as it had in determining whether to grant the initial lease. While the 2004 lease terms give the lessee a preference over other potential lessees to lease the lands in question, they do not entitle the lessee to non-discretionary renewal of the leases.

  
Hilary C. Tompkins

Attachment



# United States Department of the Interior

OFFICE OF THE SOLICITOR  
350 South Pickett Street  
ALEXANDRIA, VIRGINIA 22304

BLM.ER.0335

APR - 2 1986

## Memorandum

To: Deputy State Director, Mineral Resources (970)  
Eastern States Office, Bureau of Land Management

From: Associate Solicitor, Energy and Resources

Subject: Application for Minimum Royalty Waiver Submitted by  
INCO Alloys International, Incorporated for Leases  
ES 01352 and ES 01353

You have requested a legal opinion addressing three questions raised in a memorandum from the Milwaukee District Office. The answers along with these questions are set forth below.

Question No. 1: "Is it possible to grant lease renewals for these leases when the leases have never been in production? The lease documents and the regulations are not clear on this point. This question will surely be asked by INCO since the initial 20 year lease term expires on May 31, 1986."

A lease for hardrock minerals may be issued for a period not exceeding 20 years. The primary term on the subject leases was for a 20 year period. The lease shall be subject to a preferential right to renew for a term not to exceed 10 years at the end of the initial term and each succeeding term thereafter, upon such terms and conditions as may be incorporated in each lease or prescribed in the general regulations issued by the Secretary. 43 C.F.R. 3520.2-1(a)(2). The Secretary of the Interior has promulgated no regulations that require production as a prerequisite to the extension of such leases. Accordingly, we must look to the terms of the lease to determine whether or not lack of production precludes extending the lease term. Section 5 of the lease states that, "The Secretary of the Interior may grant extensions of time for commencement of production in the interest of conservation or upon a satisfactory showing by the lessee that the lease cannot be successfully operated at a profit or for other reasons . . . but the lessee shall not be entitled to subsequent such renewals unless it shall have begun production within the extended time." Therefore, according to the terms of the lease, such lease may be extended even though production has not occurred, for a period not exceeding 10 years. If production does not occur during the period of extension, no further extensions will be allowed in accordance with the terms of the lease.

Question No. 2: "INCO has been given waivers of minimum royalty payments for 5 years due to condition beyond its control (i.e.,

environmental analysis), and is now asking for a waiver based on additional conditions beyond its control (i.e., low copper and nickel prices). Has BLM set a binding precedence [sic] by granting the original waivers?"

INCO's failure to pay minimum royalties as set forth in section 2(c) of the lease, constitutes a breach of the covenants and conditions contained in the lease agreement. In section 6(b) of the lease, the United States reserved the right to waive any breach of the covenants and conditions contained therein but any such waiver shall extend only to the particular breach so waived and shall not limit the rights of the lessor with respect to any future breach. Therefore, waiver of a prior breach of the minimum royalty payments, does not obligate the Bureau to grant any subsequent waivers.

Question No. 3: Section 2(c) of the lease states, "Lessee [sic] may . . . waive . . . minimum royalty payments for reasonable periods of time . . . ." Waivers were given for the first 5 years they were due, which is one-fourth of the initial lease term. Would granting of further waivers be conceived to extend beyond a "reasonable period?"

Section 2(c) states that, "Lessor may in its discretion, waive, reduce, or suspend the minimum royalty payment for reasonable periods of time in the interest of conservation or when such action does not adversely affect the interest of the United States. . . ." Whether or not the waiver period is "reasonable" must be determined by an examination of the purpose for which such discretion was exercised. Obviously if the reason for such waiver was due to a condition that only existed for 3 years, then a waiver of minimum royalty for a 10 year period would probably be deemed unreasonable. We suggest that the information submitted by the lessee be examined and considered in its entirety in order to determine what is reasonable given the facts set forth in that information. In addition, the reasonable period of time is to be viewed in the context of the "interest of conservation" and the "interest of the United States."

If you should have any further questions relating to this matter, please contact Barry Crowell at 274-0204.



Kenneth G. Lee  
Assistant Solicitor  
Branch of Eastern Resources

Attachment

## **Label: "Twin Metals/TMM FOIA request/SOL-2018-00089/Harris"**

**Created by:**[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)

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# Conversation Contents

Fwd: tm

**Attachments:**

/3. Fwd: tm/1.1 Twin Metals -- Draft Final Clean (steve) 12 5 2017.docx

**"Harris, Steve" <steve.harris@sol.doi.gov>**

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**Sent:** Tue Aug 07 2018 11:14:44 GMT-0600 (MDT)  
**To:** Briana Collier <briana.collier@sol.doi.gov>  
**Subject:** Fwd: tm  
**Attachments:** Twin Metals -- Draft Final Clean (steve) 12 5 2017.docx

8 of 13

----- Forwarded message -----

From: **Harris, Steve** <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>  
Date: Tue, Dec 5, 2017 at 1:56 PM  
Subject: tm  
To: Steve Harris <[shhotspur@gmail.com](mailto:shhotspur@gmail.com)>

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Steve Harris

Paralegal Specialist

Division of Mineral Resources

Office of the Solicitor

U.S. Department of the Interior

Phone: (202) 208-5368

Fax: (202) 208-2225

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M-

Memorandum

To: Director, Bureau of Land Management

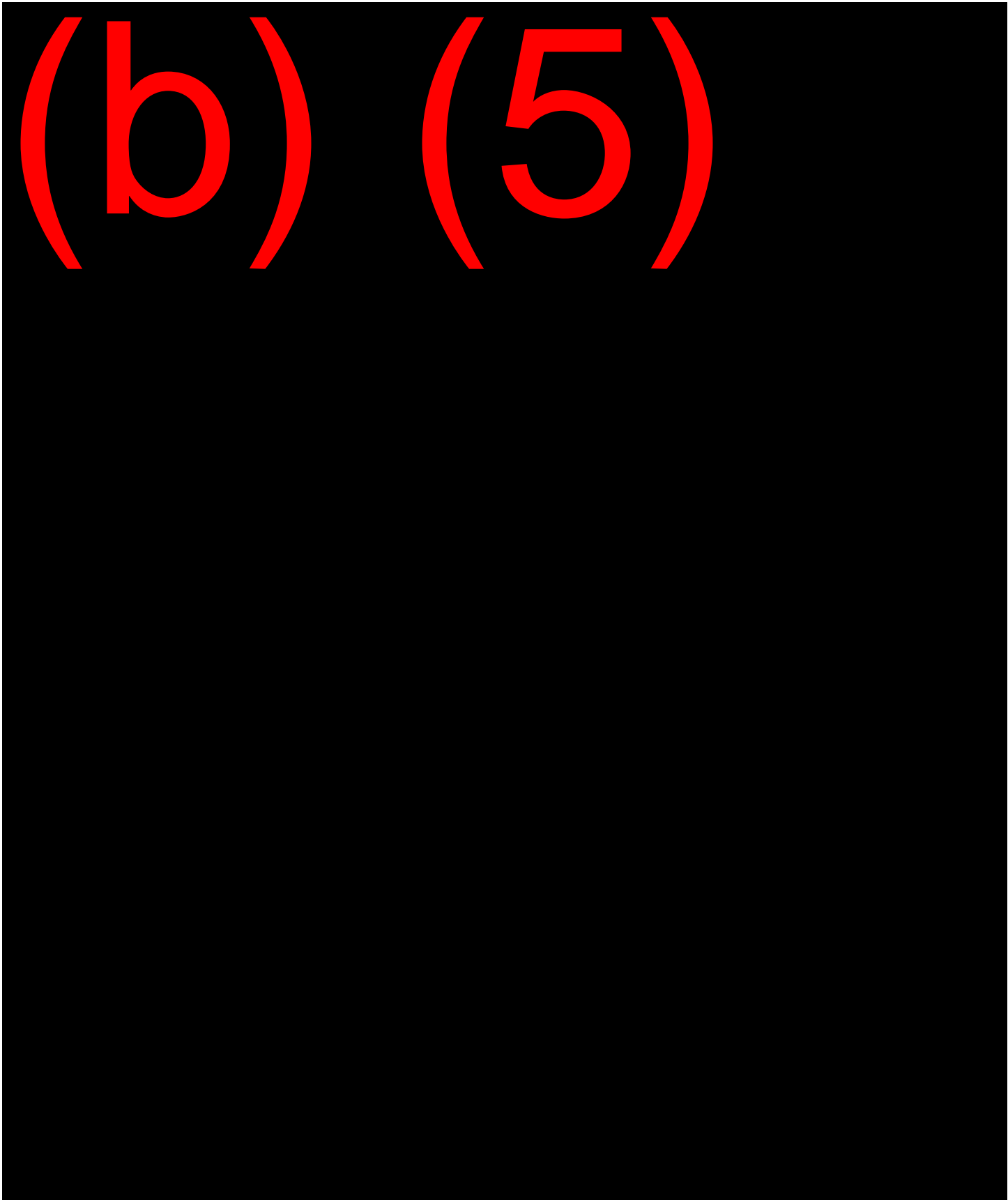
From: Solicitor

Subject: Reversal of M-37036, “Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-01353)”

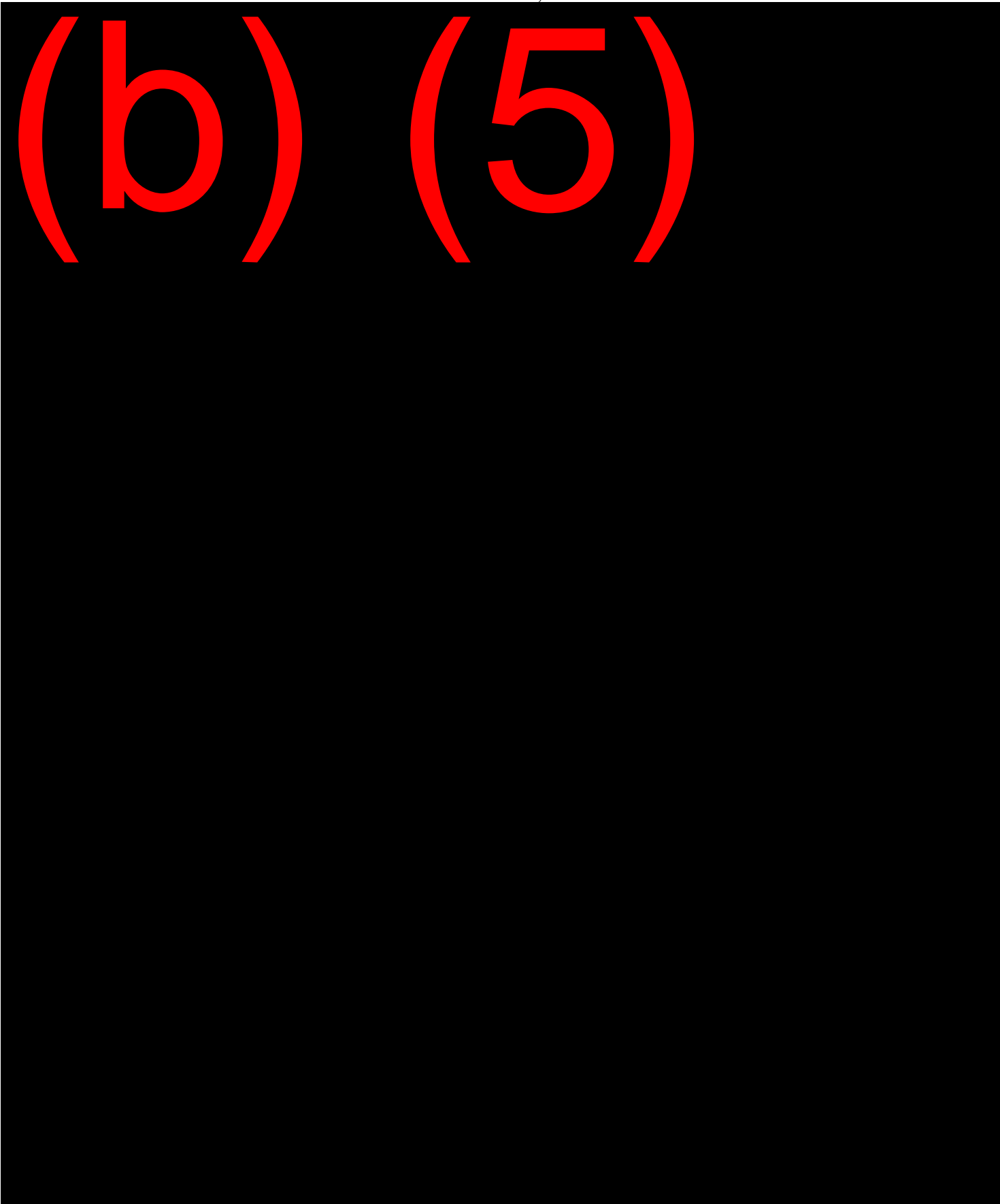
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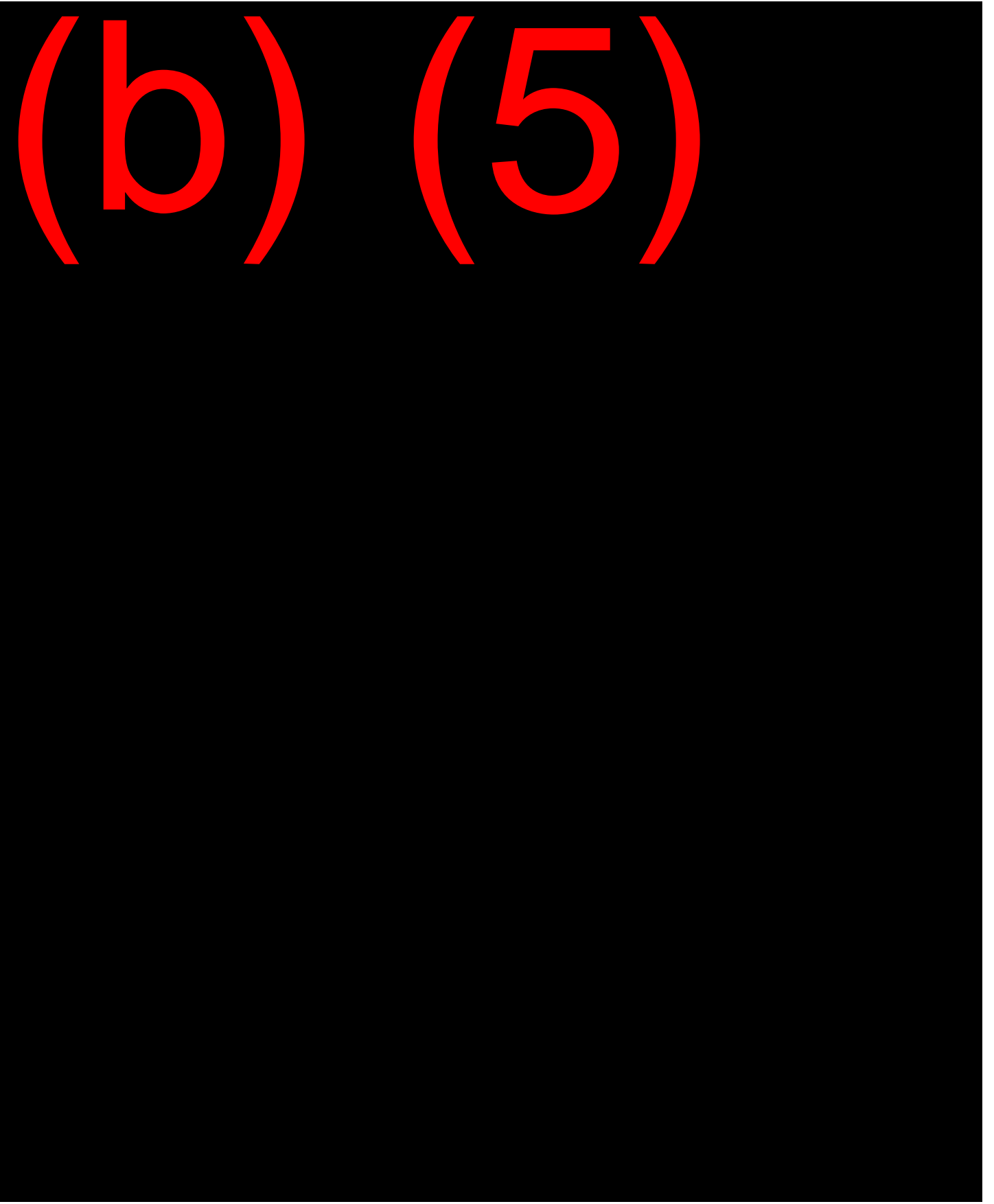
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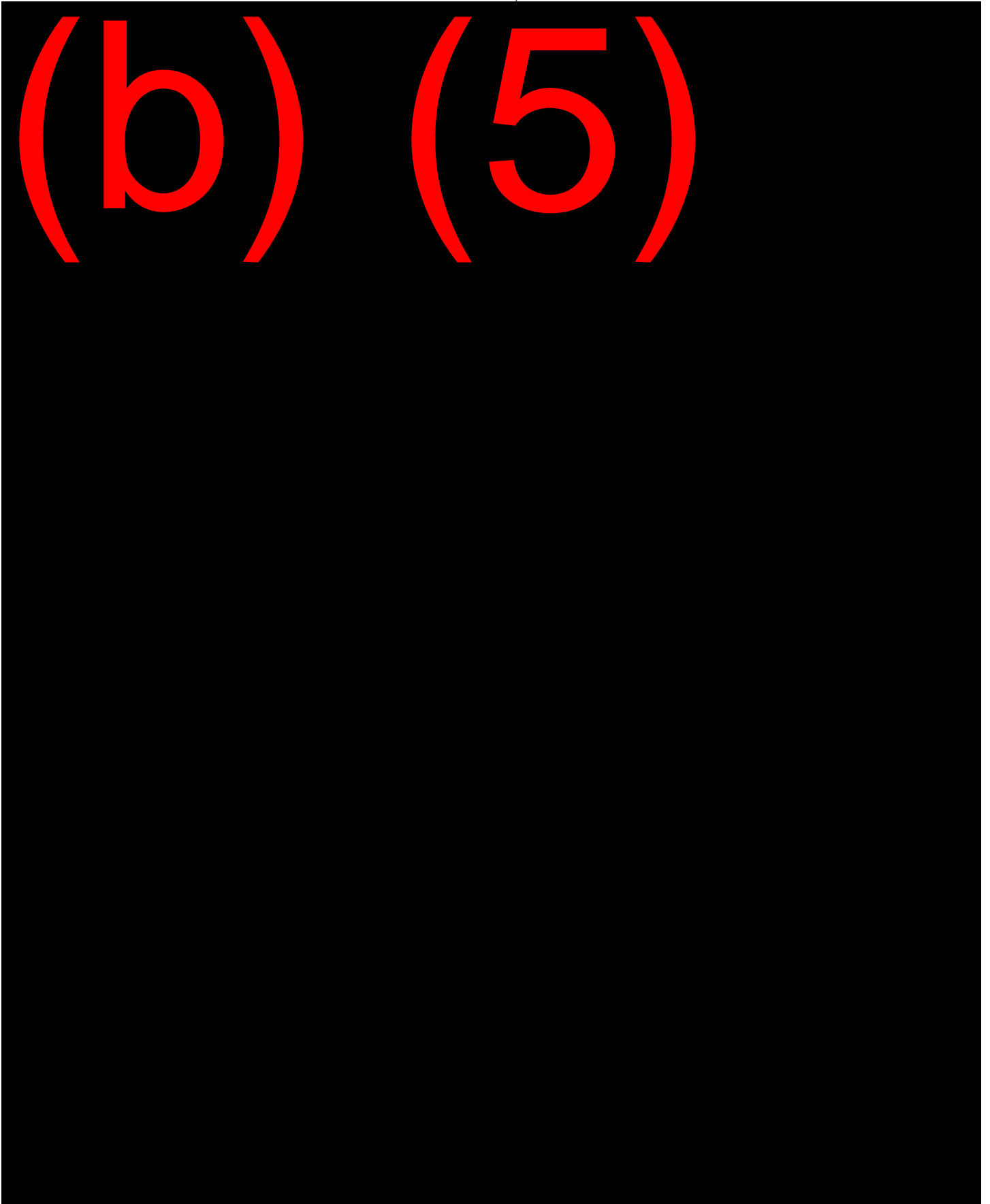
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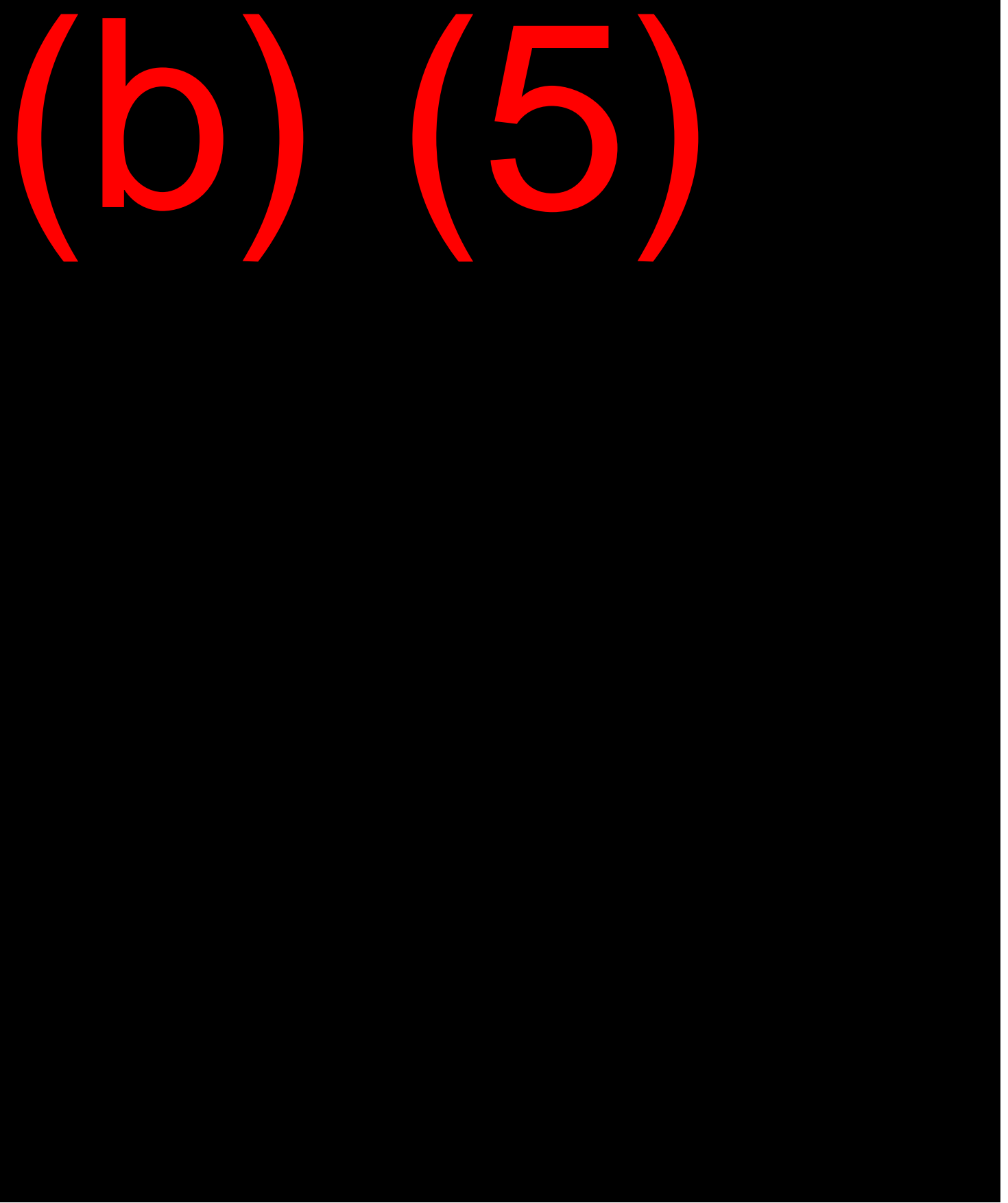
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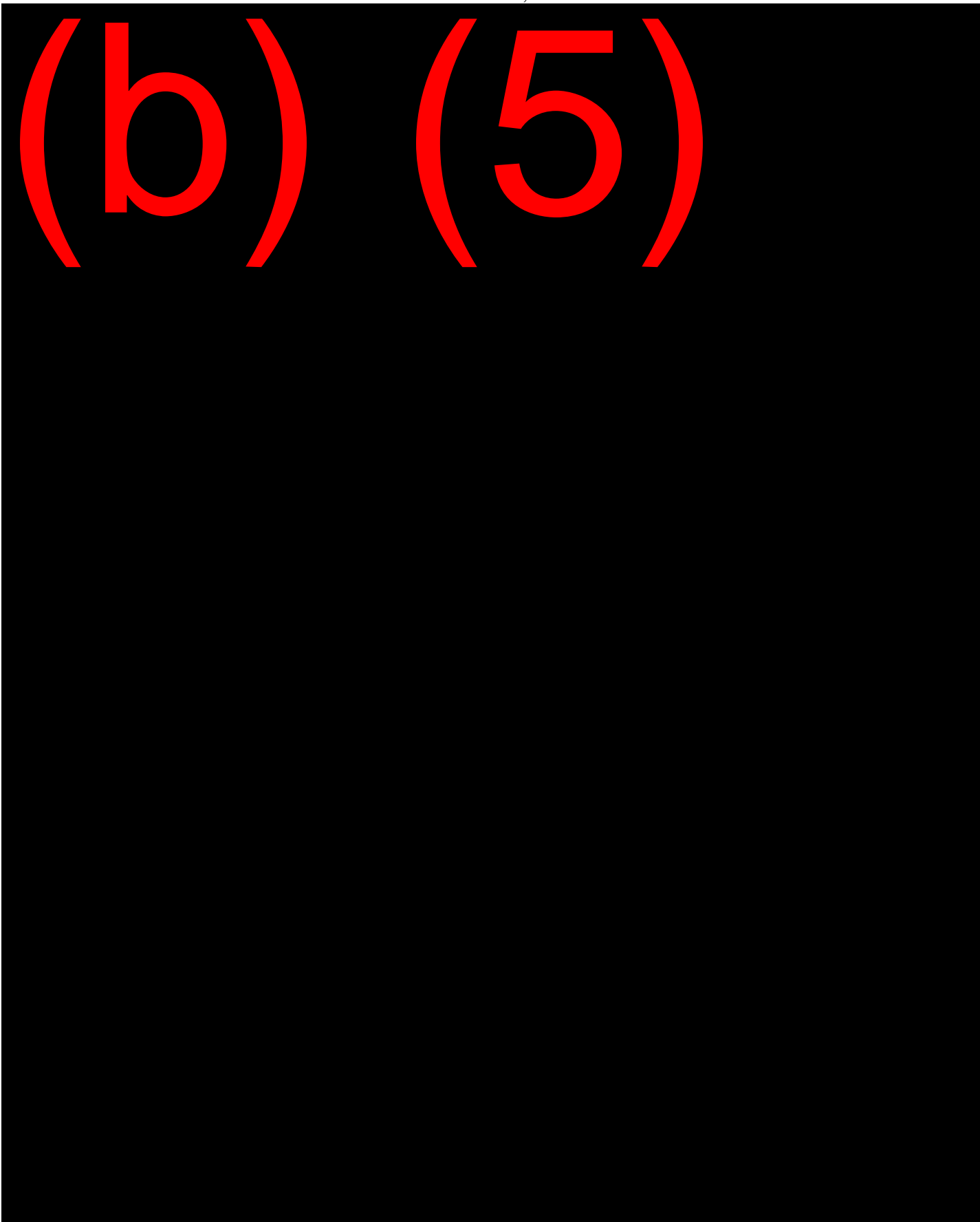
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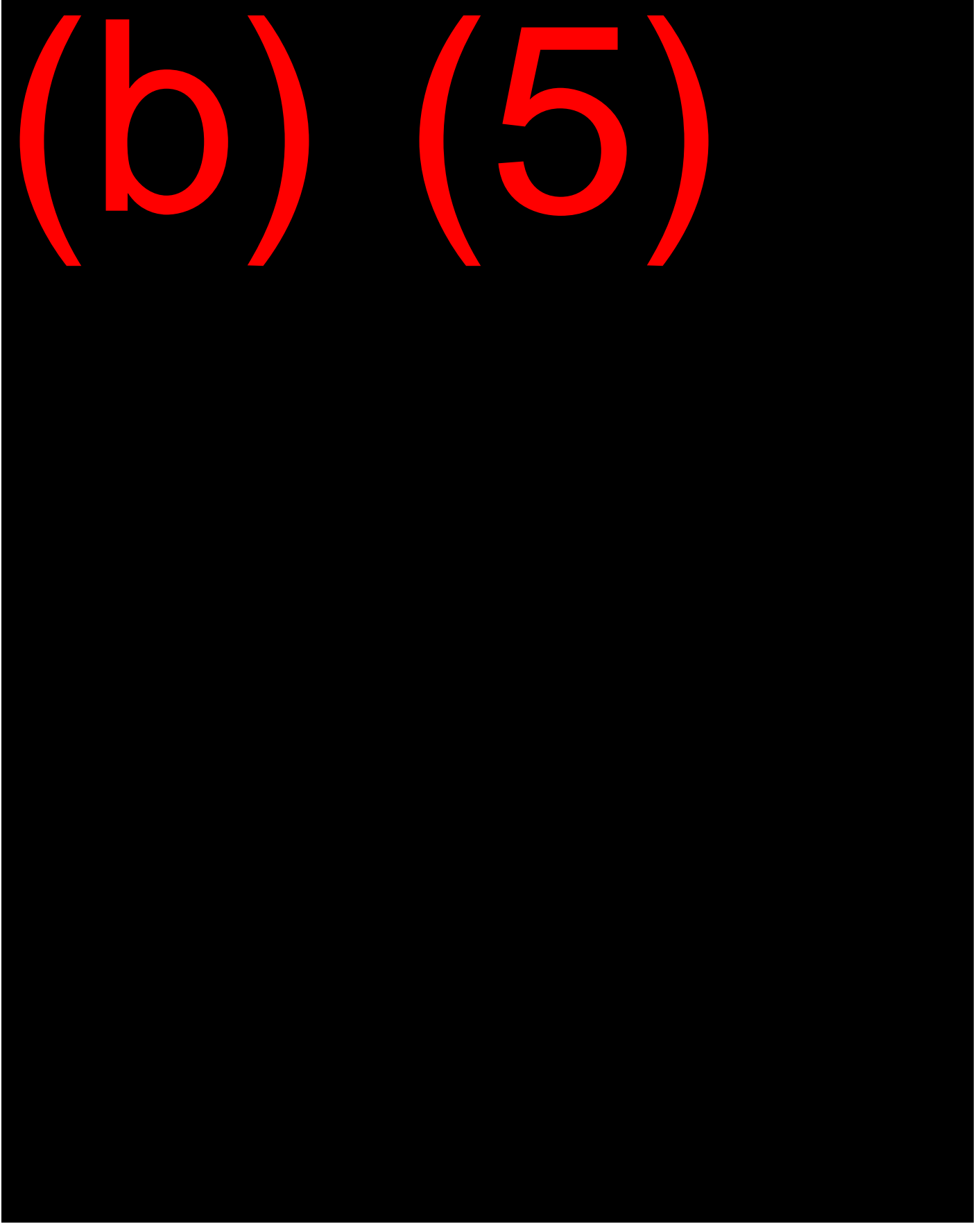
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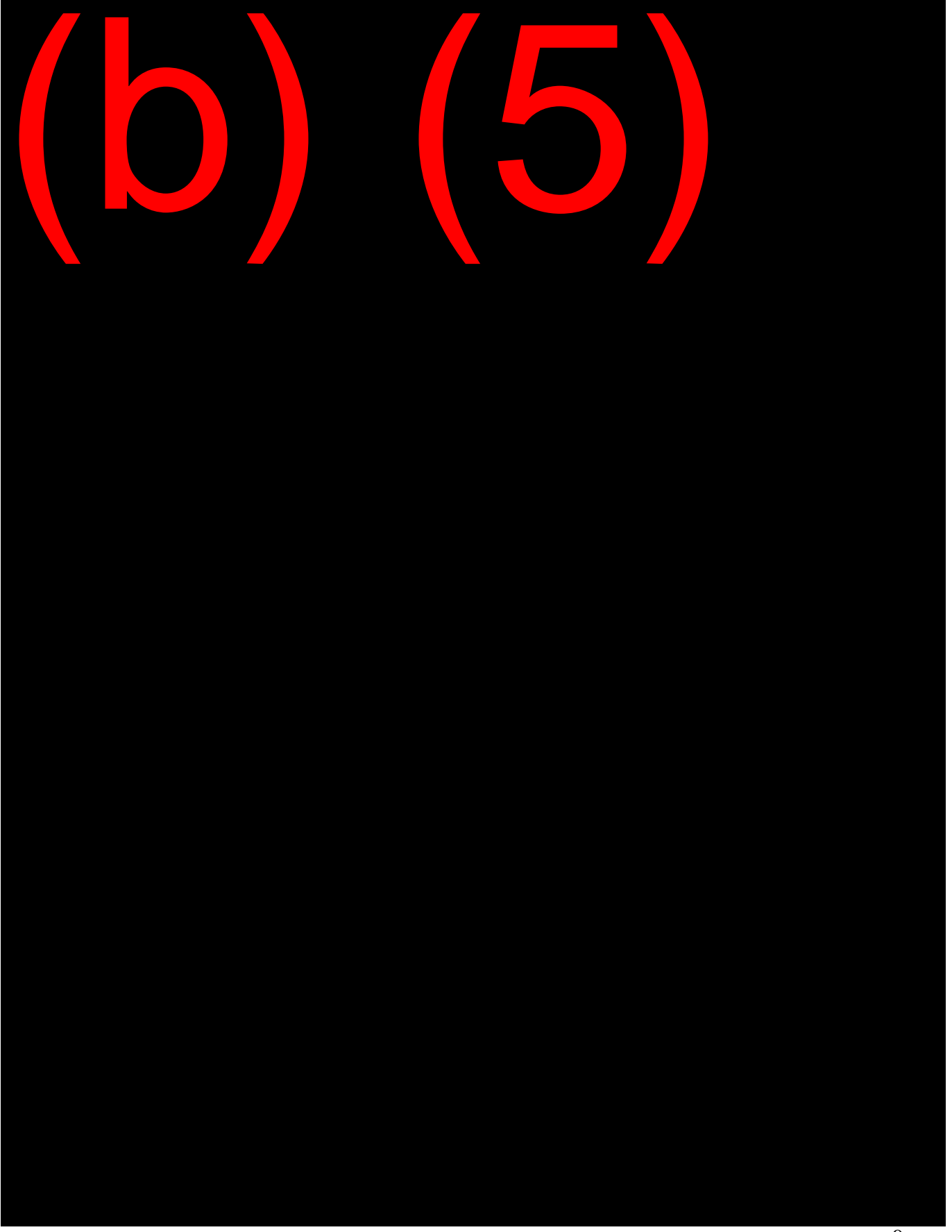
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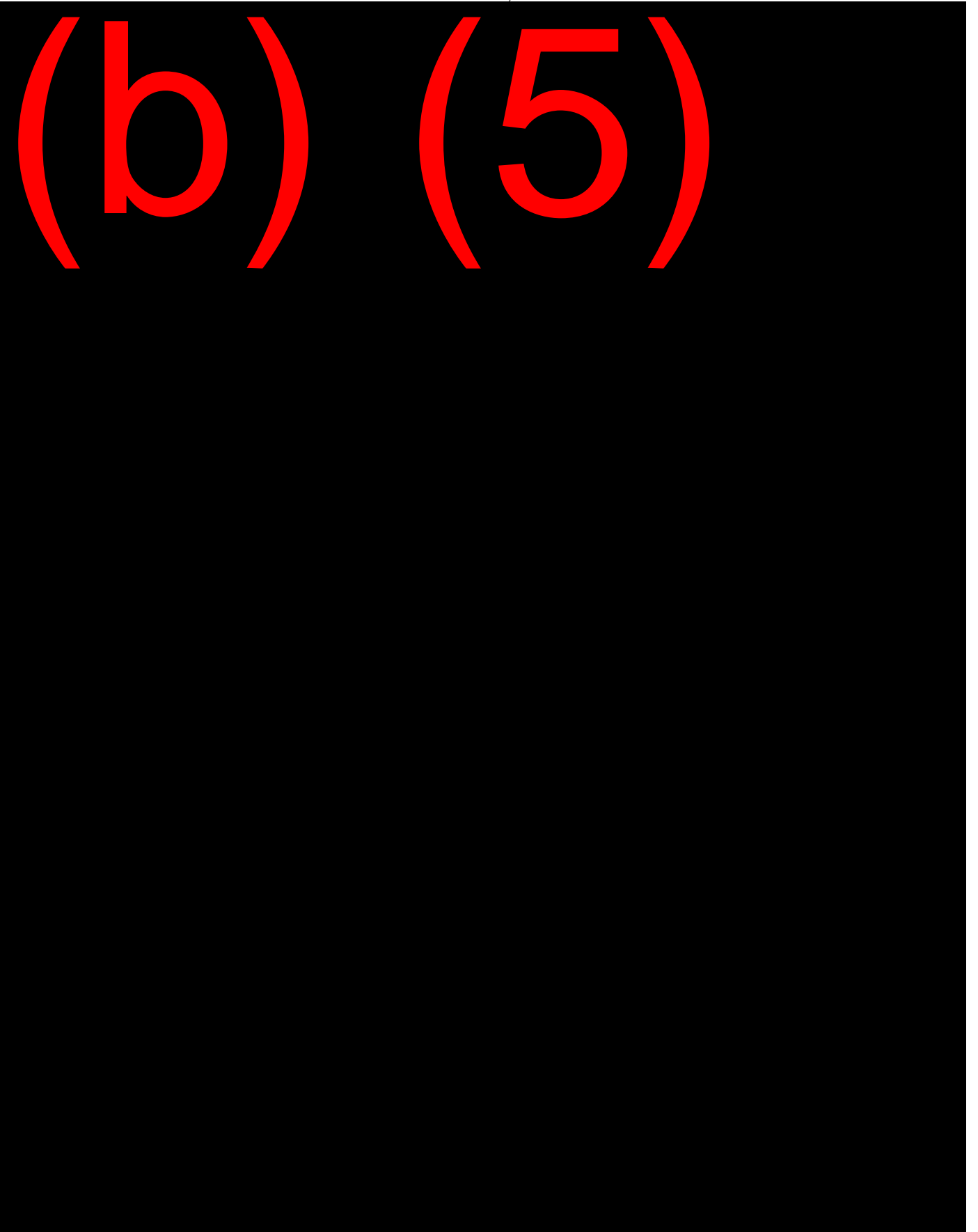


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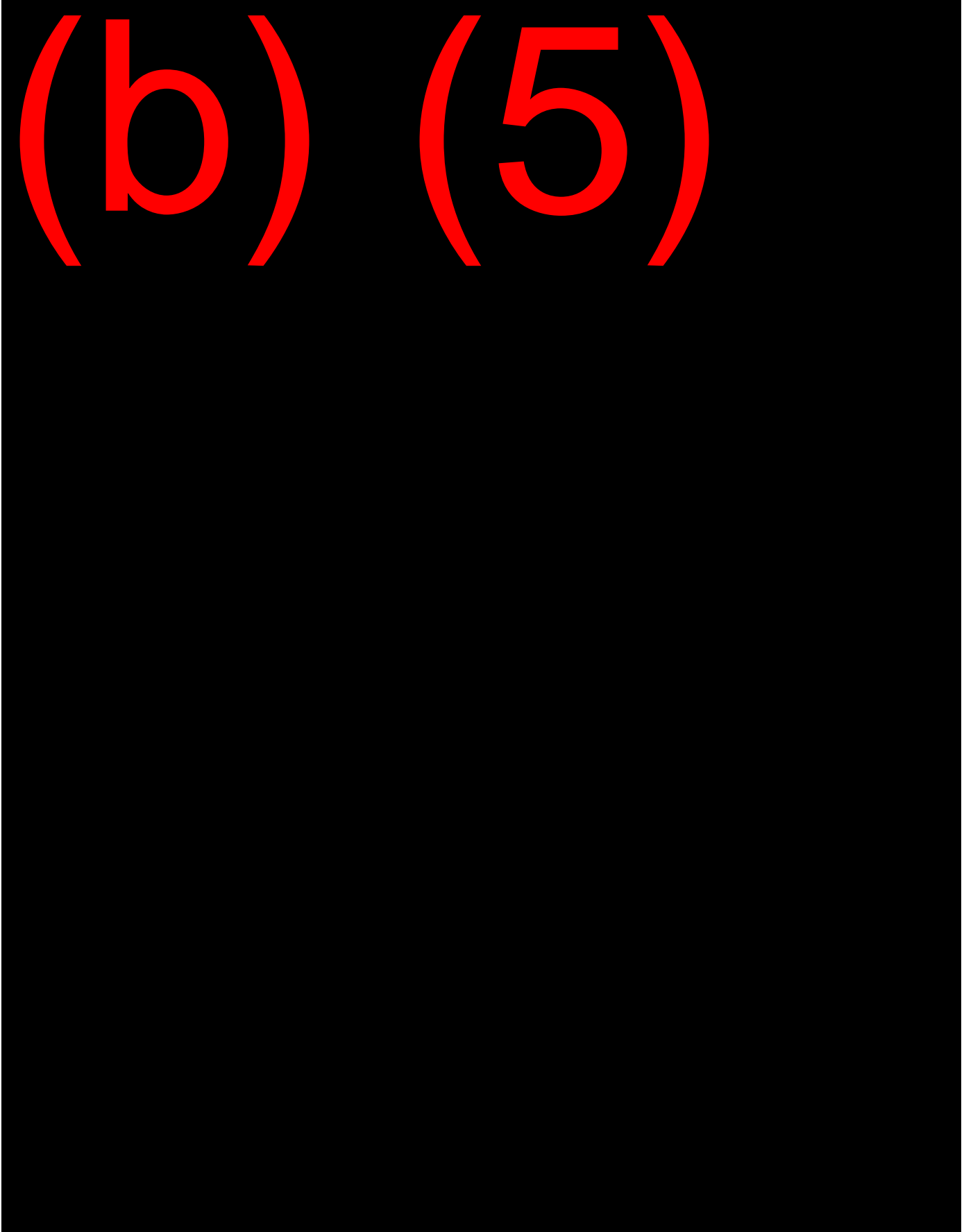




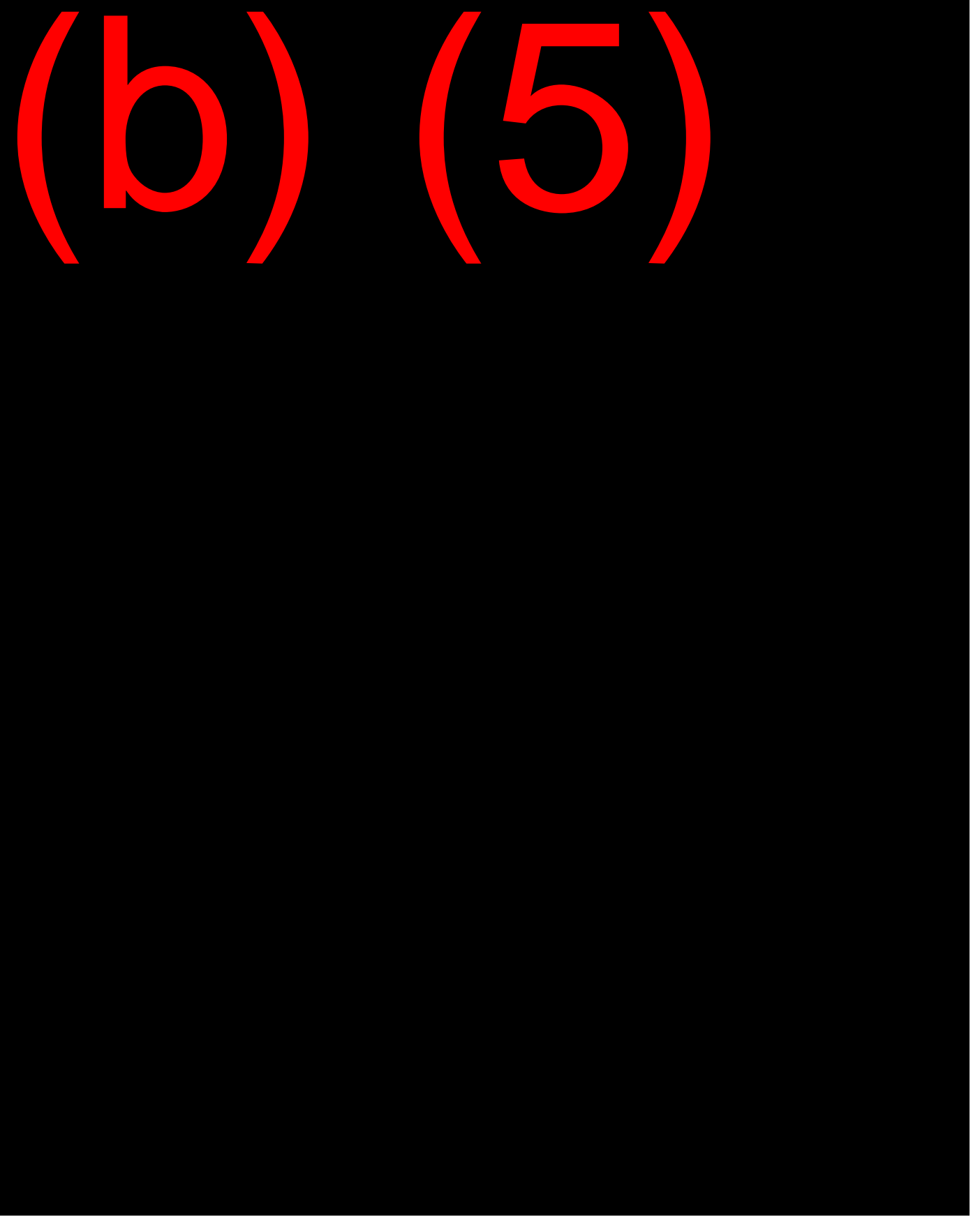
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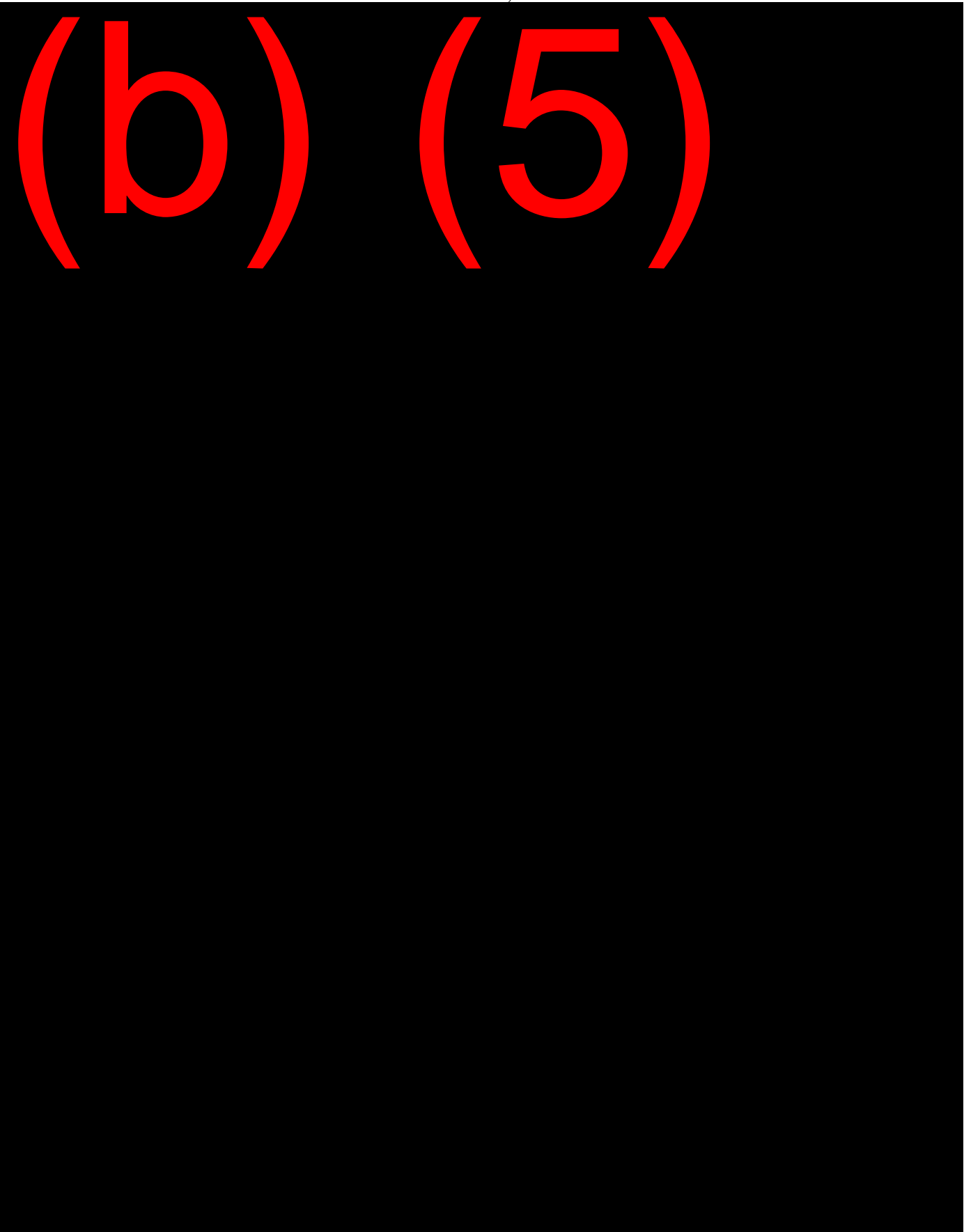
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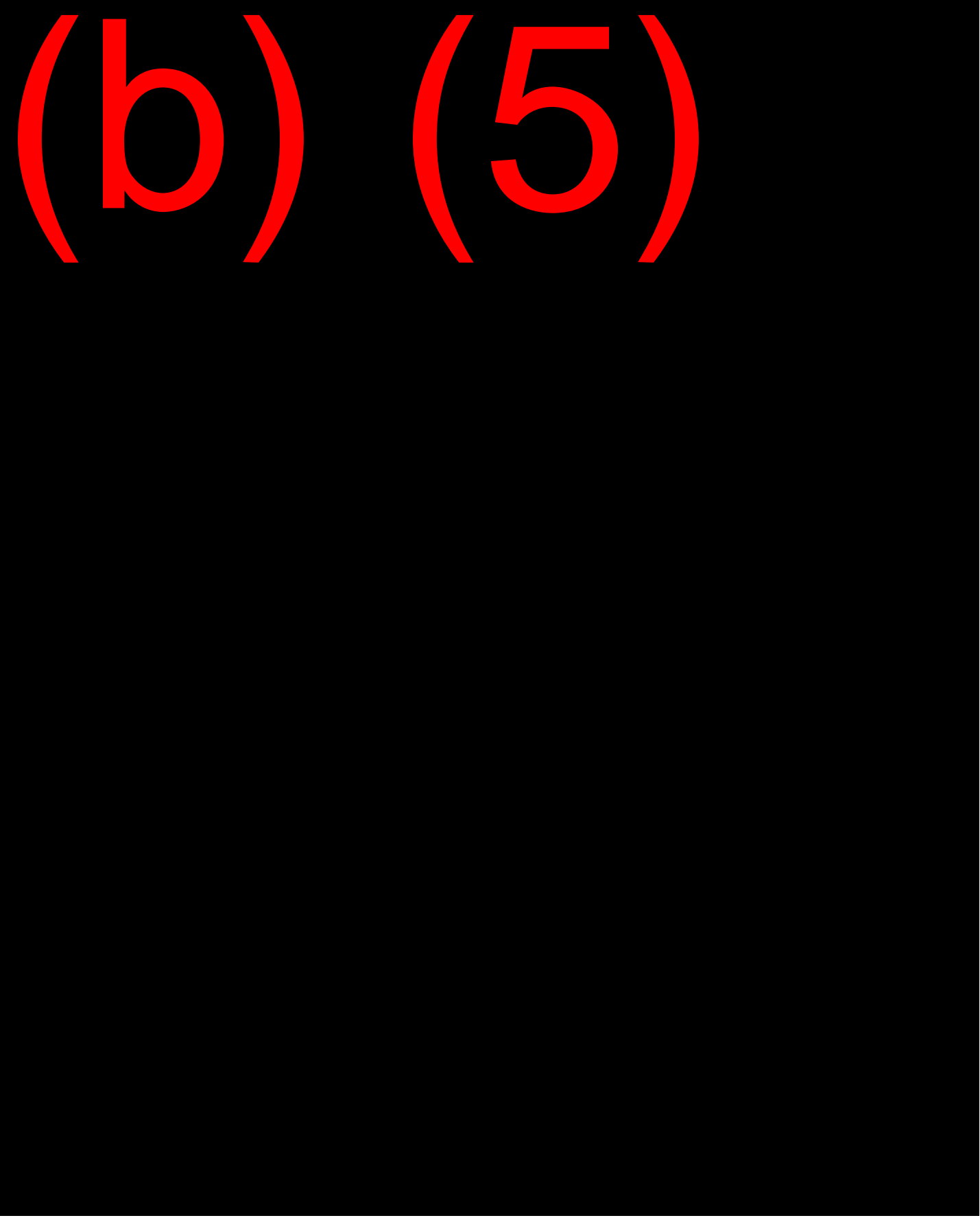
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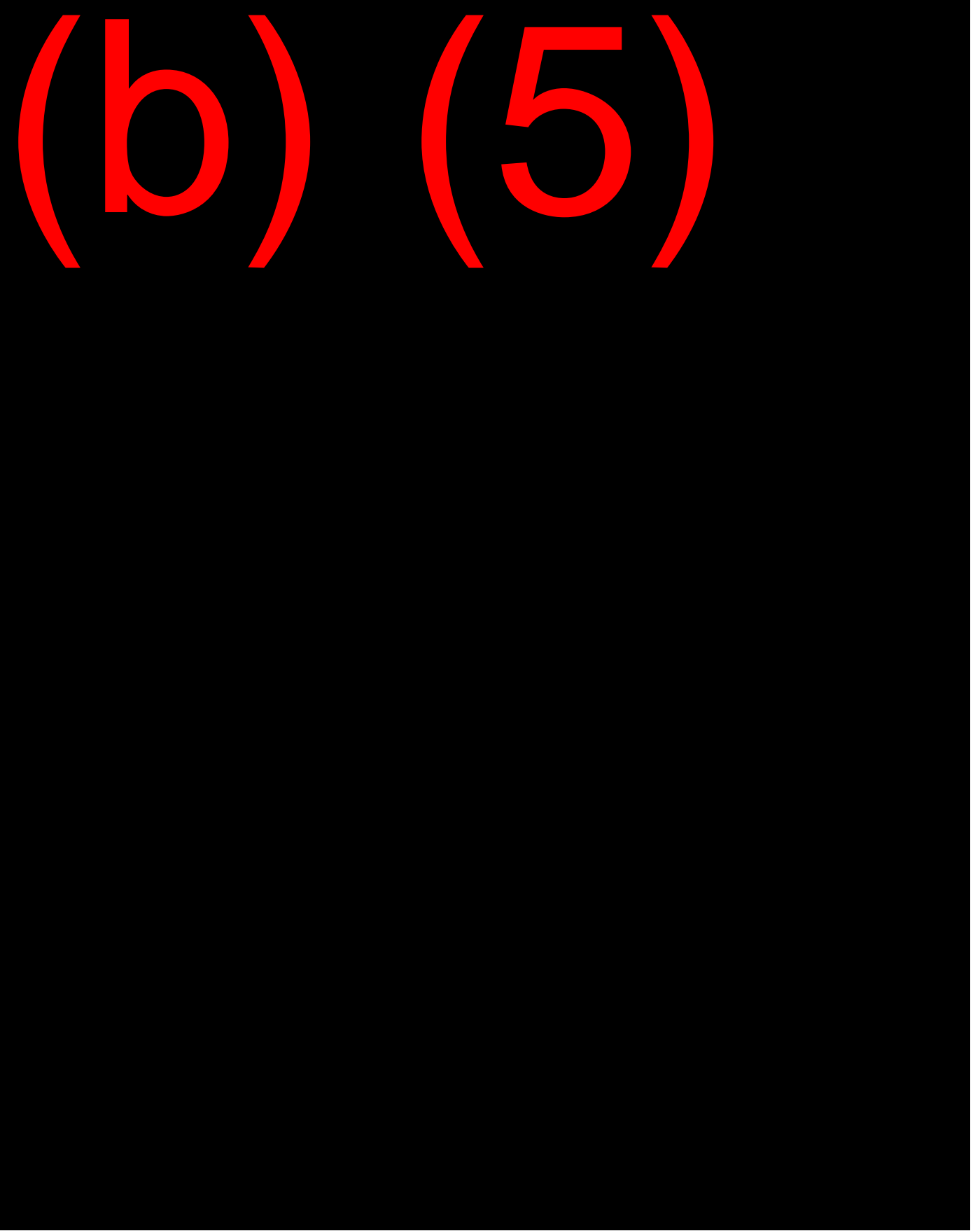
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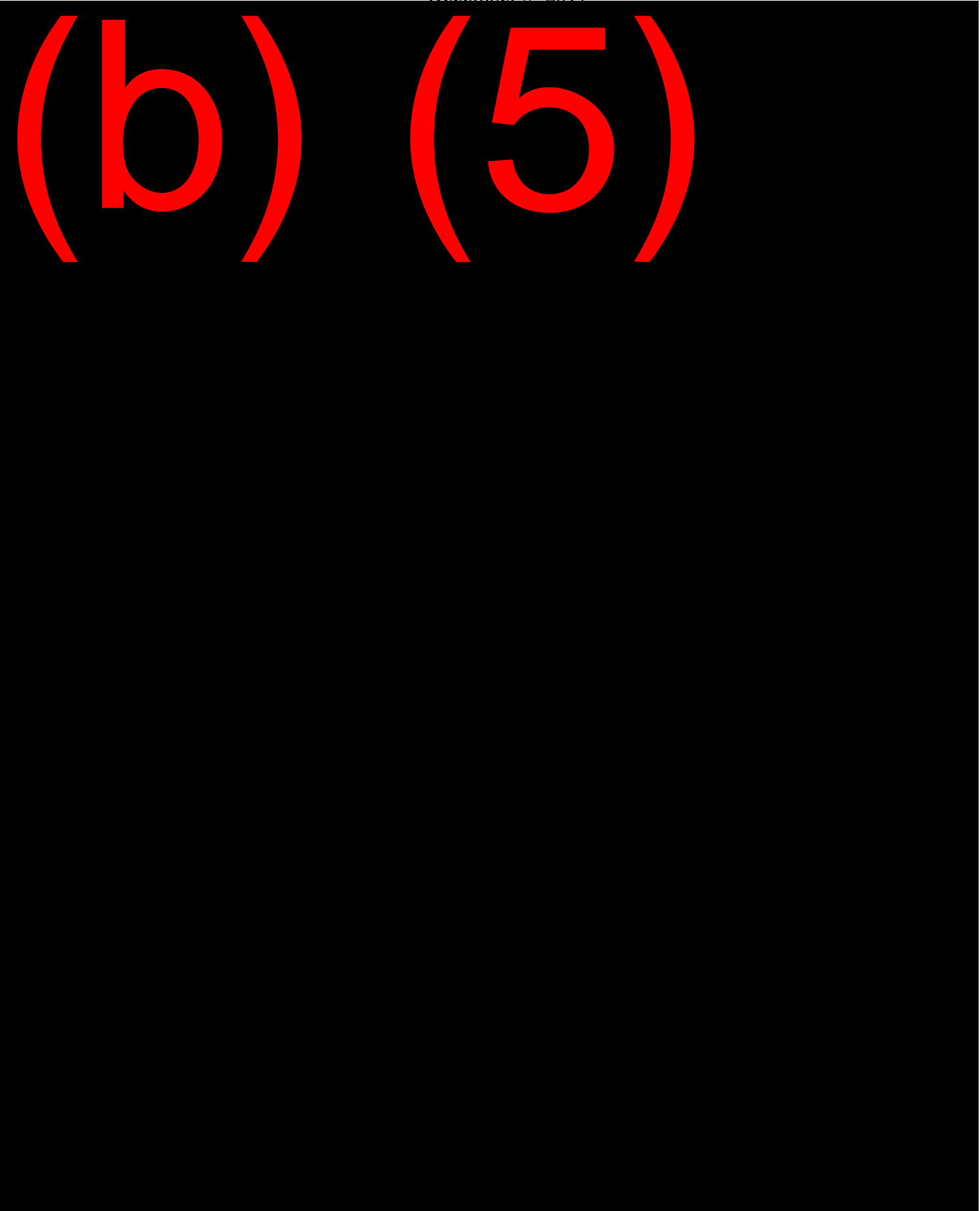
(b) (5)



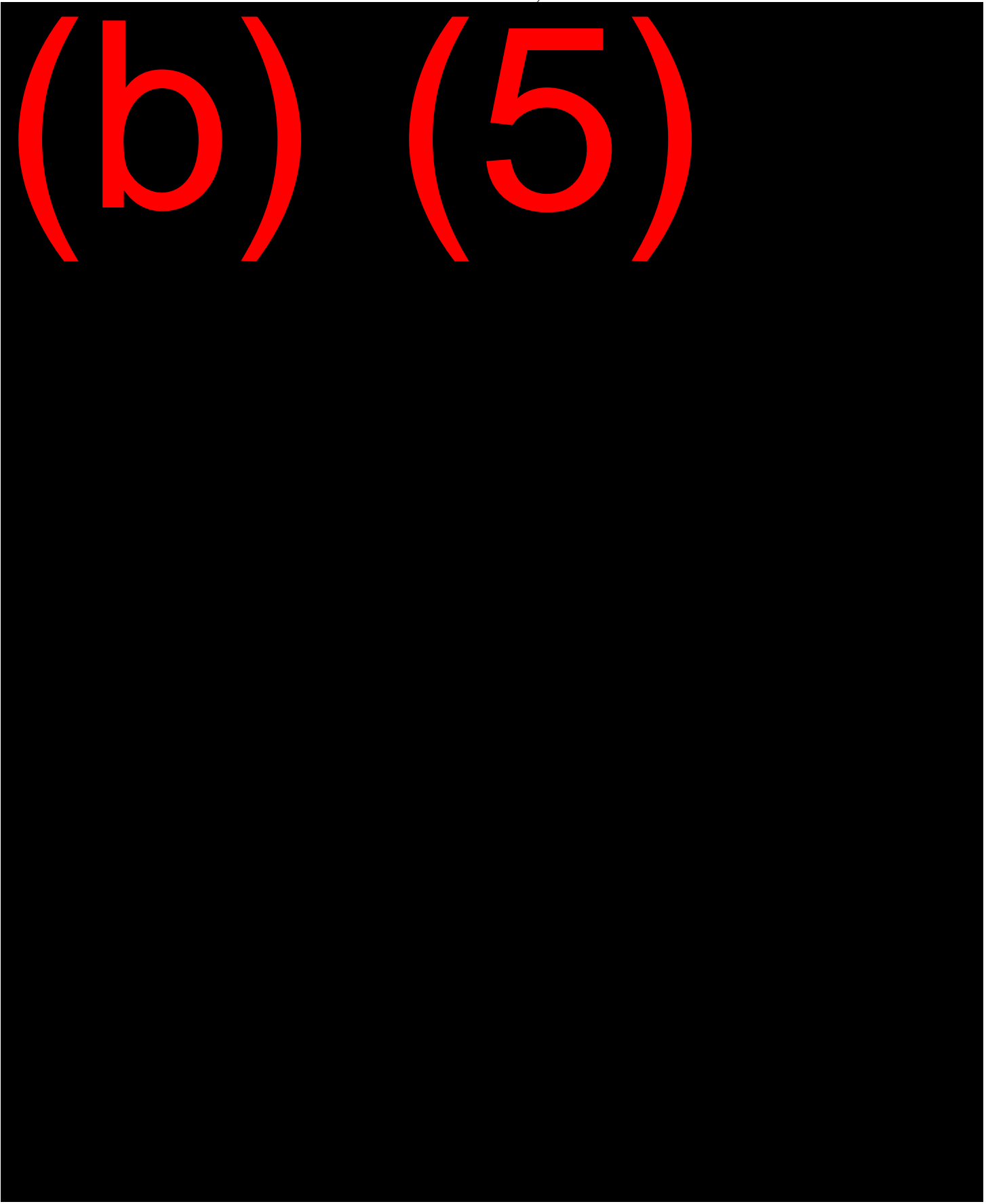
(b) (5)



(b) (5)

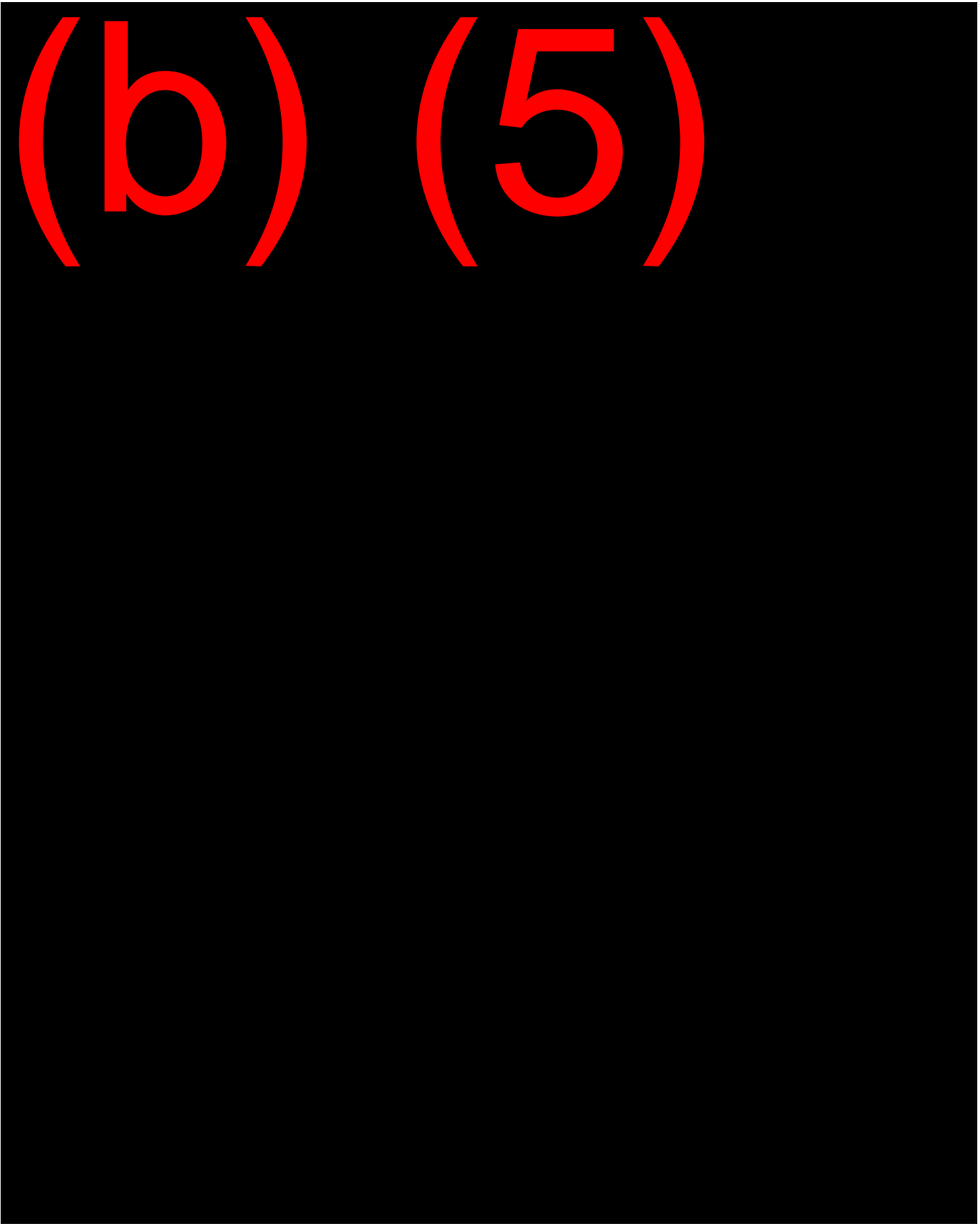


(b) (5)

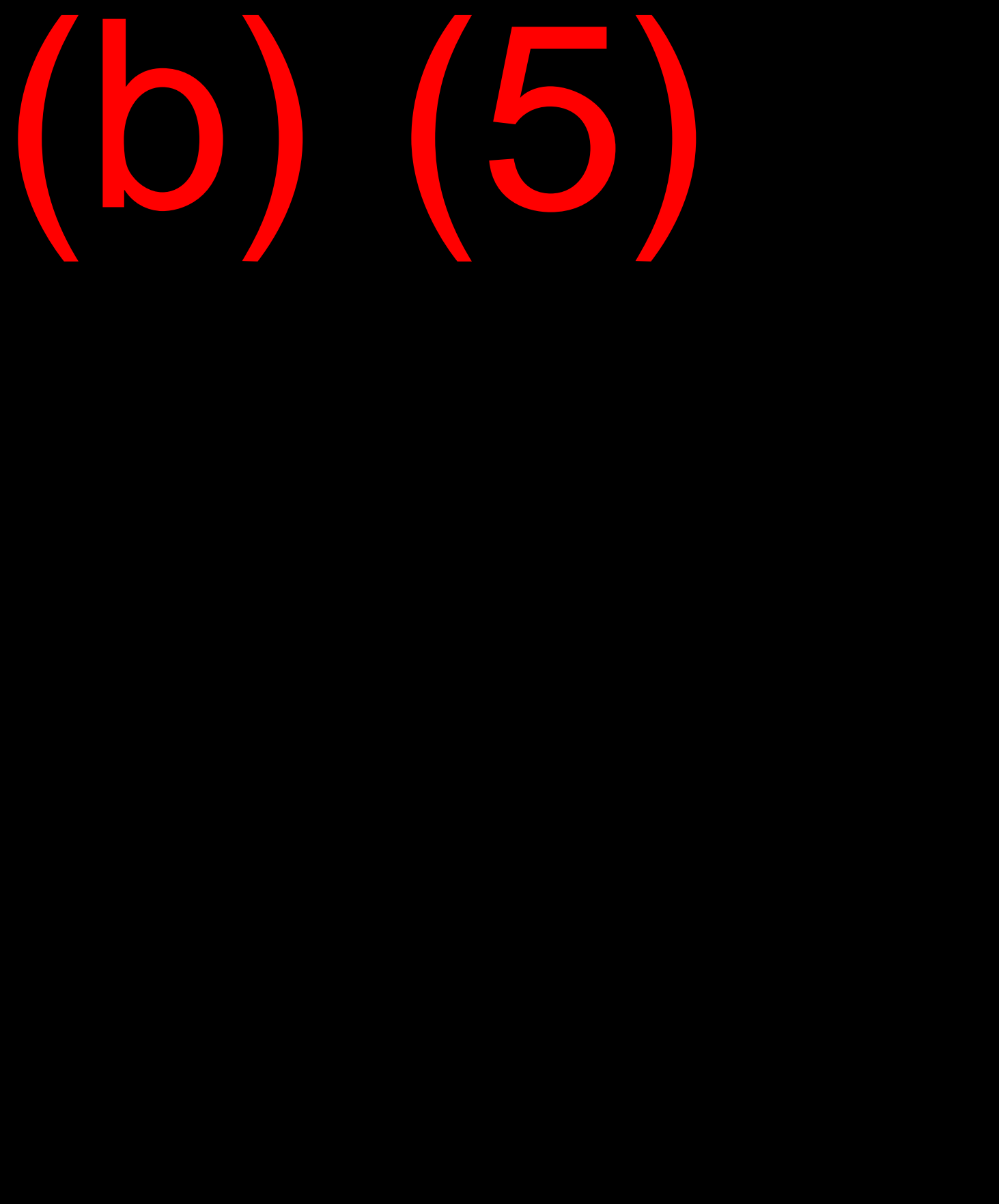




(b) (5)



(b) (5)



## **Label: "Twin Metals/TMM FOIA request/SOL-2018-00089/Harris"**

**Created by:**[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)

Total Messages in label:43 (5 conversations)

Created: 08-07-2018 at 13:13 PM

## Conversation Contents

**Fwd: How is the M-Op looking?**

**Attachments:**

/4. Fwd: How is the M-Op looking?/1.1 Twin Metals -- Draft Final Clean (steve) 12 5 2017.docx

**"Harris, Steve" <steve.harris@sol.doi.gov>**

---

**From:** "Harris, Steve" <steve.harris@sol.doi.gov>  
**Sent:** Tue Aug 07 2018 11:13:45 GMT-0600 (MDT)  
**To:** Briana Collier <briana.collier@sol.doi.gov>  
**Subject:** Fwd: How is the M-Op looking?  
**Attachments:** Twin Metals -- Draft Final Clean (steve) 12 5 2017.docx

7 of 13

**Forwarded conversation**

Subject: **How is the M-Op looking?**

-----  
From: **Hawbecker, Karen** <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>  
Date: Wed, Dec 6, 2017 at 10:12 AM  
To: Steve Harris <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>

Thanks, Steve. --Karen

-----  
From: **Harris, Steve** <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>  
Date: Wed, Dec 6, 2017 at 10:55 AM  
To: "Hawbecker, Karen" <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>

Karen, I just saw this. (I had so many windows up (Hein, Lexis, Proquest, etc.) Anyway, I just finished it (see attached). I caught a few things. Note (b) (5)

Steve

On Wed, Dec 6, 2017 at 10:12 AM, Hawbecker, Karen <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)> wrote:  
| Thanks, Steve. --Karen

--

-----  
Steve Harris

Paralegal Specialist

Division of Mineral Resources

Office of the Solicitor

U.S. Department of the Interior

Phone: (202) 208-5368

Fax: (202) 208-2225

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--

-----

Steve Harris

Paralegal Specialist

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DRAFT – Privileged and Confidential  
December 5, 2017

M-

Memorandum

To: Director, Bureau of Land Management

From: Solicitor

Subject: Reversal of M-37036, “Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-01353)”

(b) (5)



(b) (5)

[REDACTED]

[REDACTED]

Commented [HS1]: (b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

Commented [HS2]: (b) (5)

[REDACTED]

[REDACTED]

[REDACTED]





(b) (5)



(b) (5)

[REDACTED]

[REDACTED]

Commented [HS3]

(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Commented [HS4]: (b) (5)

[REDACTED]


[REDACTED]

[REDACTED]

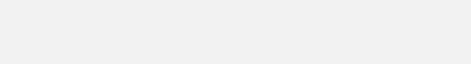
(b) (5)

A large rectangular area of the document is completely redacted with black ink. It contains several small white artifacts, possibly remnants of text or formatting.

Commented [HS5]: (b) (5)

A comment box with a pink border. The text "(b) (5)" is visible in red. The rest of the comment is redacted with black ink.

Commented [HS6]: (b) (5)

A comment box with a pink border. The text "(b) (5)" is visible in red. The rest of the comment is redacted with black ink.A block of text is redacted with black ink.A block of text is redacted with black ink.A block of text is redacted with black ink.

(b) (5)

Commented [HS7]: (b) (5)

Commented [HS8]: (b) (5)

(b) (5)

[REDACTED]

[REDACTED]

Commented [HS9]: (b) (5)

Commented [HS10]: (b) (5)

Commented [HS11]: (b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

Formatted: Font: Italic

[REDACTED]

(b) (5)



(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]





(b) (5)




---



(b) (5)



Commented [HS12]:(b) (5)



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[  
[  
[  
[



(b) (5)



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(b) (5)



Commented [HS13]: (b) (5)

(b) (5) [Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b) (5)



Commented [HS14]: (b) (5)



(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

---

[REDACTED]

## **Label: "Twin Metals/TMM FOIA request/SOL-2018-00089/Harris"**

**Created by:**[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)

Total Messages in label:43 (5 conversations)

Created: 08-07-2018 at 13:13 PM

# Conversation Contents

## Twin Metals Clean Version

### Attachments:

/5. Twin Metals Clean Version/1.1 Twin Metals -- Draft Final Clean 12 5 2017.docx  
/5. Twin Metals Clean Version/3.1 Twin Metals -- Draft Final Clean 12 5 2017+bwc.docx  
/5. Twin Metals Clean Version/5.1 Twin Metals -- Draft Final Clean 12 5 2017+bwc  
rh.m.docx  
/5. Twin Metals Clean Version/6.1 2017.12.05 Twin Metals -- Draft Final Clean 12 5  
2017+bwc rh.m ksh.docx  
/5. Twin Metals Clean Version/10.1 2017.12.06 Twin Metals -- Draft Final Clean 12 5  
2017+bwc rh.m ksh (1) steve.docx  
/5. Twin Metals Clean Version/11.1 2017.12.06 Twin Metals -- Draft Final Clean 12 5  
2017+bwc rh.m ksh (1) steve.docx  
/5. Twin Metals Clean Version/12.1 Twin Metals -- Draft Final Clean 12 5 2017.docx  
/5. Twin Metals Clean Version/12.2 Twin Metals -- Draft Final Clean 12 5  
2017+bwc.docx  
/5. Twin Metals Clean Version/12.3 Twin Metals -- Draft Final Clean 12 5 2017+bwc  
rh.m.docx  
/5. Twin Metals Clean Version/12.4 2017.12.05 Twin Metals -- Draft Final Clean 12 5  
2017+bwc rh.m ksh.docx  
/5. Twin Metals Clean Version/12.5 2017.12.06 Twin Metals -- Draft Final Clean 12 5  
2017+bwc rh.m ksh (1) steve.docx

## "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

---

**From:** "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>  
**Sent:** Tue Dec 05 2017 10:38:55 GMT-0700 (MST)  
Karen Hawbecker <karen.hawbecker@sol.doi.gov>, Briana Collier  
**To:** <briana.collier@sol.doi.gov>, Richard McNeer  
<richard.mcneer@sol.doi.gov>, Gary Lawkowski  
<gary.lawkowski@sol.doi.gov>  
**CC:** Mariagrazia Caminiti <Marigrace.Caminiti@sol.doi.gov>  
**Subject:** Twin Metals Clean Version  
**Attachments:** Twin Metals -- Draft Final Clean 12 5 2017.docx

Here's a clean version of the draft opinion that has been cleared by Dan. Let's use this one for any additional edits. Karen, we should probably have Steve do one more cite-check before we go final. I'm copying Marigrace as well.

## "Hawbecker, Karen" <karen.hawbecker@sol.doi.gov>

---

**From:** "Hawbecker, Karen" <karen.hawbecker@sol.doi.gov>  
**Sent:** Tue Dec 05 2017 10:39:39 GMT-0700 (MST)  
**To:** "Haugrud, Kevin" <jack.haugrud@sol.doi.gov>

**CC:** Briana Collier <briana.collier@sol.doi.gov>, Richard McNeer <richard.mcneer@sol.doi.gov>, Gary Lawkowski <gary.lawkowski@sol.doi.gov>, Mariagrazia Caminiti <Marigrace.Caminiti@sol.doi.gov>

**Subject:** Re: Twin Metals Clean Version

Okay. I'll send it to Steve now. --Karen

On Tue, Dec 5, 2017 at 12:38 PM, Haugrud, Kevin <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)> wrote:  
Here's a clean version of the draft opinion that has been cleared by Dan. Let's use this one for any additional edits. Karen, we should probably have Steve do one more cite-check before we go final. I'm copying Marigrace as well.

**"Collier, Briana" <briana.collier@sol.doi.gov>**

---

**From:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**Sent:** Tue Dec 05 2017 12:04:08 GMT-0700 (MST)  
**To:** "Hawbecker, Karen" <karen.hawbecker@sol.doi.gov>, Richard McNeer <richard.mcneer@sol.doi.gov>, Steve Harris <steve.harris@sol.doi.gov>  
**Subject:** Re: Twin Metals Clean Version  
**Attachments:** Twin Metals -- Draft Final Clean 12 5 2017+bwc.docx

Here is the version Jack sent at 12:30 with my comments added. I had just a few comments/deletions addressing (b) (5)

[REDACTED]

Please let me know of any other assistance I can provide on this. Thank you.

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

Phone: (202) 208-4853

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On Tue, Dec 5, 2017 at 10:39 AM, Hawbecker, Karen <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)> wrote:  
Okay. I'll send it to Steve now. --Karen

On Tue, Dec 5, 2017 at 12:38 PM, Haugrud, Kevin <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)> wrote:  
Here's a clean version of the draft opinion that has been cleared by Dan. Let's use this one for any additional edits. Karen, we should probably have Steve do one more cite-check before we go final. I'm copying Marigrace as well.

**"Harris, Steve" <steve.harris@sol.doi.gov>**

---

**From:** "Harris, Steve" <steve.harris@sol.doi.gov>  
**Sent:** Tue Dec 05 2017 12:33:19 GMT-0700 (MST)  
**To:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**CC:** "Hawbecker, Karen" <karen.hawbecker@sol.doi.gov>, Richard McNeer <richard.mcneer@sol.doi.gov>  
**Subject:** Re: Twin Metals Clean Version

Unless told otherwise, I will be using the version Karen sent me (I think Briana's is the same one). If something changes, let me know. I will start on it early tomorrow morning. -- Steve

On Tue, Dec 5, 2017 at 2:04 PM, Collier, Briana <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)> wrote:

Here is the version Jack sent at 12:30 with my comments added. I had just a few comments/deletions addressin (b) (5)

Please let me know of any other assistance I can provide on this. Thank you.

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
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On Tue, Dec 5, 2017 at 10:39 AM, Hawbecker, Karen <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)> wrote:

Okay. I'll send it to Steve now. --Karen

On Tue, Dec 5, 2017 at 12:38 PM, Haugrud, Kevin <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)> wrote:  
Here's a clean version of the draft opinion that has been cleared by Dan. Let's use this one for any additional edits. Karen, we should probably have Steve do one more cite-check before we go final. I'm copying Marigrace as well.

--

-----  
Steve Harris

Paralegal Specialist

Division of Mineral Resources

Office of the Solicitor

U.S. Department of the Interior

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**"McNeer, Richard" <richard.mcneer@sol.doi.gov>**

---

**From:** "McNeer, Richard" <richard.mcneer@sol.doi.gov>  
**Sent:** Tue Dec 05 2017 15:33:23 GMT-0700 (MST)  
**To:** "Collier, Briana" <briana.collier@sol.doi.gov>  
**CC:** "Hawbecker, Karen" <karen.hawbecker@sol.doi.gov>, Steve Harris <steve.harris@sol.doi.gov>  
**Subject:** Re: Twin Metals Clean Version  
**Attachments:** Twin Metals -- Draft Final Clean 12 5 2017+bwc rhm.docx

Briana:


I made only one comment on p.4.

Thanks,

Richard

On Tue, Dec 5, 2017 at 2:04 PM, Collier, Briana <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)> wrote:

Here is the version Jack sent at 12:30 with my comments added. I had just a few comments/deletions addressing (b) (5)



Please let me know of any other assistance I can provide on this. Thank you.

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
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Albuquerque, NM 87102

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hereby notified that any dissemination, distribution, copying, or use of this email or its contents is strictly prohibited. If you received this email in error, please notify the sender immediately and destroy all copies.

On Tue, Dec 5, 2017 at 10:39 AM, Hawbecker, Karen <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)> wrote:

Okay. I'll send it to Steve now. --Karen

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Here's a clean version of the draft opinion that has been cleared by Dan. Let's use this one for any additional edits. Karen, we should probably have Steve do one more cite-check before we go final. I'm copying Marigrace as well.

---

**"Hawbecker, Karen" <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>**

---

**From:** "Hawbecker, Karen" <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>  
**Sent:** Tue Dec 05 2017 18:20:30 GMT-0700 (MST)  
**To:** "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
**CC:** Steve Harris <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>, "McNeer, Richard" <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>  
**Subject:** Re: Twin Metals Clean Version  
**Attachments:** 2017.12.05 Twin Metals -- Draft Final Clean 12 5 2017+bwc rhm ksh.docx

Briana, I reviewed the version that Richard sent with his comment included and added my edits. This version now has all of our combined DMR edits before Steve's review. Please see my question in your comment on page 18.

Steve, Please review this version for cite checking. Thank you.

--Karen

On Tue, Dec 5, 2017 at 5:33 PM, McNeer, Richard <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)> wrote:  
Briana:

I made only one comment on p.4.

Thanks,

Richard

On Tue, Dec 5, 2017 at 2:04 PM, Collier, Briana <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)> wrote:  
Here is the version Jack sent at 12:30 with my comments added. I had just a few comments/deletions addressing (b) (5)

Please let me know of any other assistance I can provide on this. Thank you.

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
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Okay. I'll send it to Steve now. --Karen

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---

**"Hawbecker, Karen" <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>**

---

**From:** "Hawbecker, Karen" <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>  
**Sent:** Tue Dec 05 2017 18:29:12 GMT-0700 (MST)  
**To:** "Haugrud, Kevin" <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)>  
Briana Collier <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>, Richard McNeer <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>, Gary Lawkowski <[gary.lawkowski@sol.doi.gov](mailto:gary.lawkowski@sol.doi.gov)>, Mariagrazia Caminiti <[Marigrace.Caminiti@sol.doi.gov](mailto:Marigrace.Caminiti@sol.doi.gov)>  
**CC:**  
**Subject:** Re: Twin Metals Clean Version

Jack,

Briana, Richard, and I have reviewed the latest version and noted our combined edits in the same document. Steve is going to cite-check that version first thing in the morning. We plan to send you our feedback by mid-day tomorrow.

--Karen

On Tue, Dec 5, 2017 at 12:38 PM, Haugrud, Kevin <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)> wrote:  
Here's a clean version of the draft opinion that has been cleared by Dan. Let's use this one for any additional edits. Karen, we should probably have Steve do one more cite-check before we go final. I'm copying Marigrace as well.

---

**Kevin Haugrud <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)>**

---

**From:** Kevin Haugrud <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)>  
**Sent:** Tue Dec 05 2017 18:49:01 GMT-0700 (MST)  
**To:** "Hawbecker, Karen" <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>  
Briana Collier <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>, Richard McNeer <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>, Gary Lawkowski <[gary.lawkowski@sol.doi.gov](mailto:gary.lawkowski@sol.doi.gov)>, Mariagrazia Caminiti  
**CC:**



<Marigrace.Caminiti@sol.doi.gov>

**Subject:**

Re: Twin Metals Clean Version

Sounds good. Thanks.

---

**From:** Hawbecker, Karen

**Sent:** Tuesday, December 5, 2017 8:29 PM

**To:** Haugrud, Kevin

**Cc:** Briana Collier; Richard McNeer; Gary Lawkowski; Mariagrazia Caminiti

**Subject:** Re: Twin Metals Clean Version

---

Jack,

Briana, Richard, and I have reviewed the latest version and noted our combined edits in the same document. Steve is going to cite-check that version first thing in the morning. We plan to send you our feedback by mid-day tomorrow.

--Karen

On Tue, Dec 5, 2017 at 12:38 PM, Haugrud, Kevin <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)> wrote:

Here's a clean version of the draft opinion that has been cleared by Dan. Let's use this one for any additional edits. Karen, we should probably have Steve do one more cite-check before we go final. I'm copying Marigrace as well.

---

**"Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>**

---

**From:** "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>


**Sent:** Wed Dec 06 2017 08:01:52 GMT-0700 (MST)

**To:** "Hawbecker, Karen" <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>

**CC:** Steve Harris <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>, "McNeer, Richard" <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>

**Subject:** Re: Twin Metals Clean Version

Thanks Karen. I was suggesting (b) (5)



Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

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On Tue, Dec 5, 2017 at 6:20 PM, Hawbecker, Karen <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)> wrote:

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Please let me know of any other assistance I can provide on this. Thank you.

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
U.S. Department of the Interior, Office of the Solicitor  
505 Marquette Ave., NW Ste.1800  
Albuquerque, NM 87102

Phone: (202) 208-4853

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**From:** "Hawbecker, Karen" <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>  
**Sent:** Wed Dec 06 2017 13:13:53 GMT-0700 (MST)  
**To:** "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
**CC:** Steve Harris <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>, "McNeer, Richard" <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>  
**Subject:** Re: Twin Metals Clean Version

**Attachments:**

2017.12.06 Twin Metals -- Draft Final Clean 12 5 2017+bwc rhm  
ksh (1) steve.docx

Briana, Here's the memo with all of our combined edits. Please see the four or five notes from Steve (b) (5) [REDACTED] As we discussed, once you've gone through it, please share the new draft with Jack, Richard, Steve, and me. Thank you. --Karen

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Briana Collier  
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[Albuquerque, NM 87102](#)

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**From:** "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
**Sent:** Wed Dec 06 2017 13:56:18 GMT-0700 (MST)  
**To:** "Haugrud, Kevin" <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)>  
**CC:** "Hawbecker, Karen" <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>, "McNeer, Richard" <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>  
**Subject:** Re: Twin Metals Clean Version  
**Attachments:** 2017.12.06 Twin Metals -- Draft Final Clean 12 5 2017+bwc rhm  
ksh (1) steve.docx

Jack,

Here is the Twin Metals M-Opinion with DMR's combined edits. Please let us know of any questions or concerns.

Thank you,  
Briana

Briana Collier  
Attorney-Adviser, Division of Mineral Resources  
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---

**From:** "Harris, Steve" <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>  
**Sent:** Tue Aug 07 2018 11:13:15 GMT-0600 (MDT)  
**To:** Briana Collier <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
**Subject:** Fwd: Twin Metals Clean Version  
Twin Metals -- Draft Final Clean 12 5 2017.docx Twin Metals --  
Draft Final Clean 12 5 2017+bwc.docx Twin Metals -- Draft Final  
Clean 12 5 2017+bwc rhm.docx 2017.12.05 Twin Metals -- Draft  
Final Clean 12 5 2017+bwc rhm ksh.docx 2017.12.06 Twin Metals  
-- Draft Final Clean 12 5 2017+bwc rhm ksh (1) steve.docx

6 of 13

**Forwarded conversation**

**Subject: Fwd: Twin Metals Clean Version**

-----  
From: **Hawbecker, Karen** <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>  
Date: Tue, Dec 5, 2017 at 12:40 PM  
To: Steve Harris <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>

Steve, Could I ask you to do one more cite-check before this goes final. We expect it to go final this week. Thank  
you. --Karen

----- Forwarded message -----

From: **Haugrud, Kevin** <[jack.haugrud@sol.doi.gov](mailto:jack.haugrud@sol.doi.gov)>  
Date: Tue, Dec 5, 2017 at 12:38 PM  
Subject: Twin Metals Clean Version  
To: Karen Hawbecker <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>, Briana Collier  
<[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>, Richard McNeer <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>, Gary Lawkowski  
<[gary.lawkowski@sol.doi.gov](mailto:gary.lawkowski@sol.doi.gov)>  
Cc: Mariagrazia Caminiti <[Marigrace.Caminiti@sol.doi.gov](mailto:Marigrace.Caminiti@sol.doi.gov)>

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Date: Tue, Dec 5, 2017 at 2:33 PM  
To: "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
Cc: "Hawbecker, Karen" <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>, Richard McNeer <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>

Unless told otherwise, I will be using the version Karen sent me (I think Briana's is the same one). If something changes, let me know. I will start on it early tomorrow morning. -- Steve

-----  
Steve Harris

Paralegal Specialist

Division of Mineral Resources

Office of the Solicitor

U.S. Department of the Interior

Phone: (202) 208-5368

Fax: (202) 208-2225

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Date: Tue, Dec 5, 2017 at 5:33 PM  
To: "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
Cc: "Hawbecker, Karen" <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>, Steve Harris <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>

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From: **Hawbecker, Karen** <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>  
Date: Tue, Dec 5, 2017 at 8:20 PM  
To: "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>  
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From: **Hawbecker, Karen** <[karen.hawbecker@sol.doi.gov](mailto:karen.hawbecker@sol.doi.gov)>

Date: Wed, Dec 6, 2017 at 3:13 PM

To: "Collier, Briana" <[briana.collier@sol.doi.gov](mailto:briana.collier@sol.doi.gov)>

Cc: Steve Harris <[steve.harris@sol.doi.gov](mailto:steve.harris@sol.doi.gov)>, "McNeer, Richard" <[richard.mcneer@sol.doi.gov](mailto:richard.mcneer@sol.doi.gov)>

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DRAFT – Privileged and Confidential  
December 5, 2017

M-

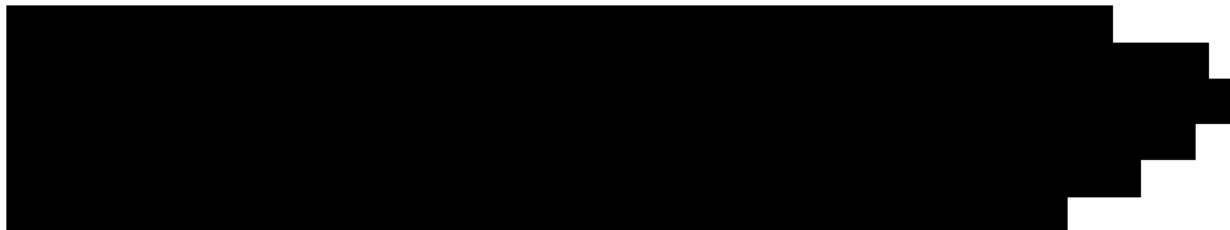
Memorandum

To: Director, Bureau of Land Management

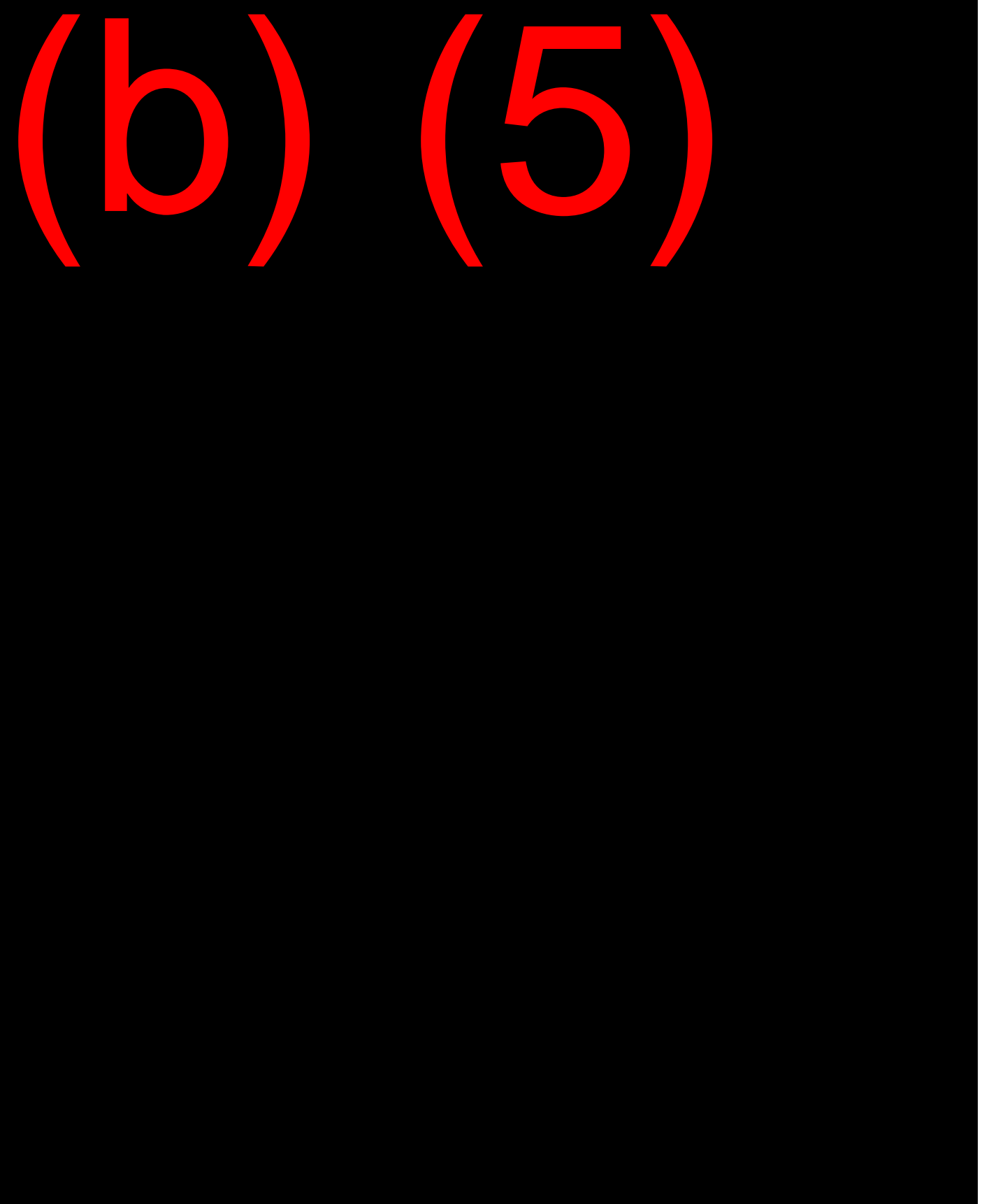
From: Solicitor

Subject: Reversal of M-37036, “Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-01353)”

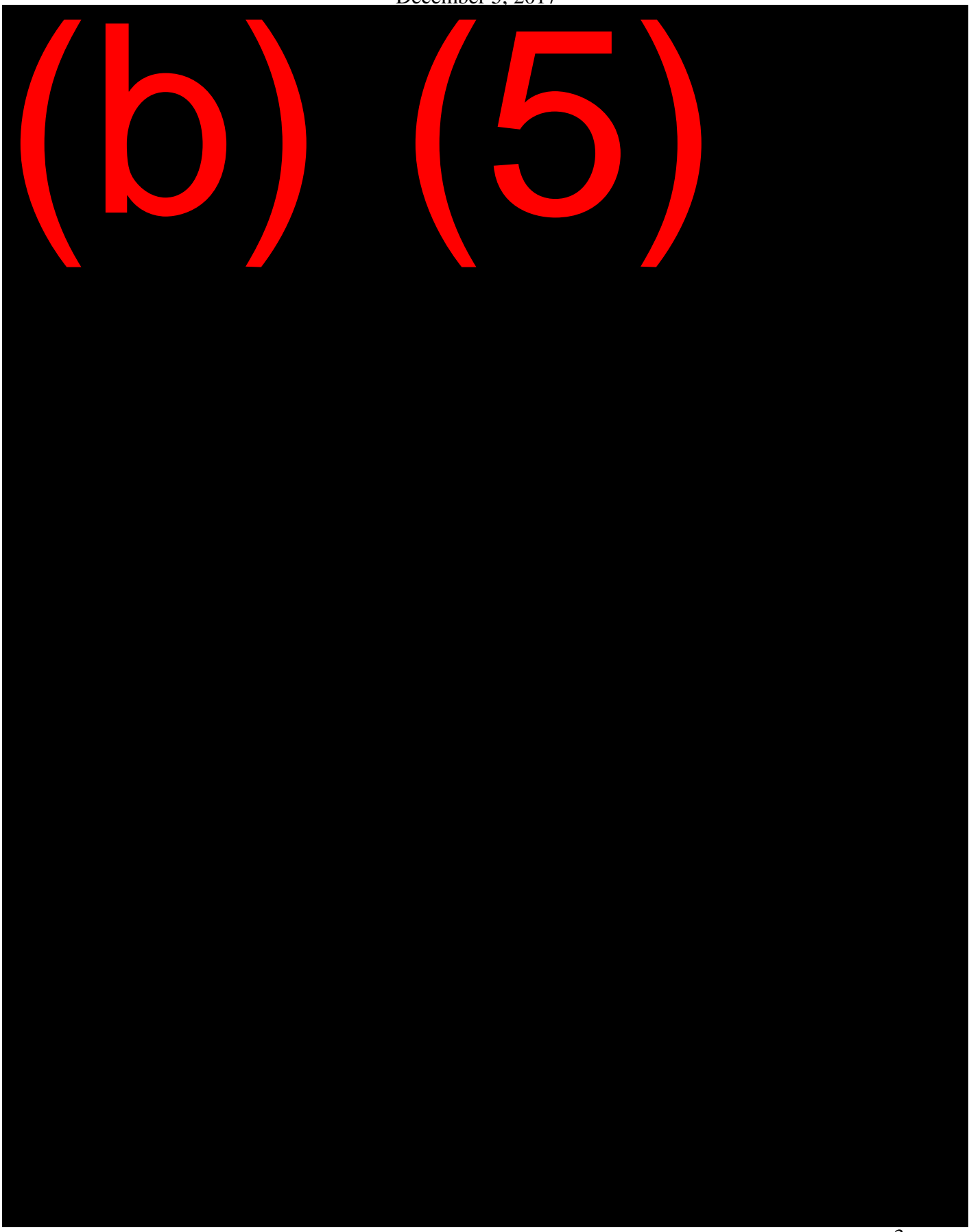
(b) (5)



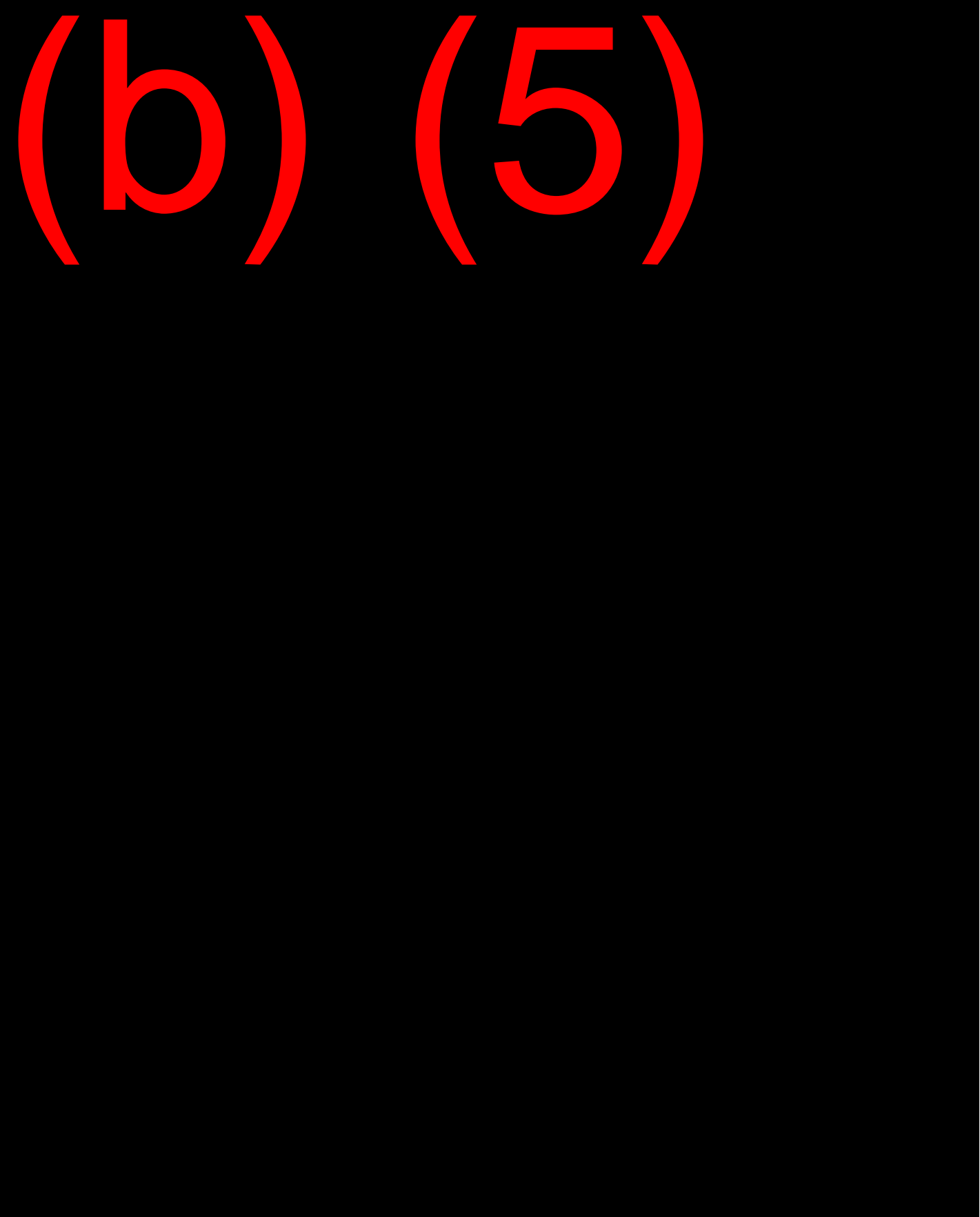
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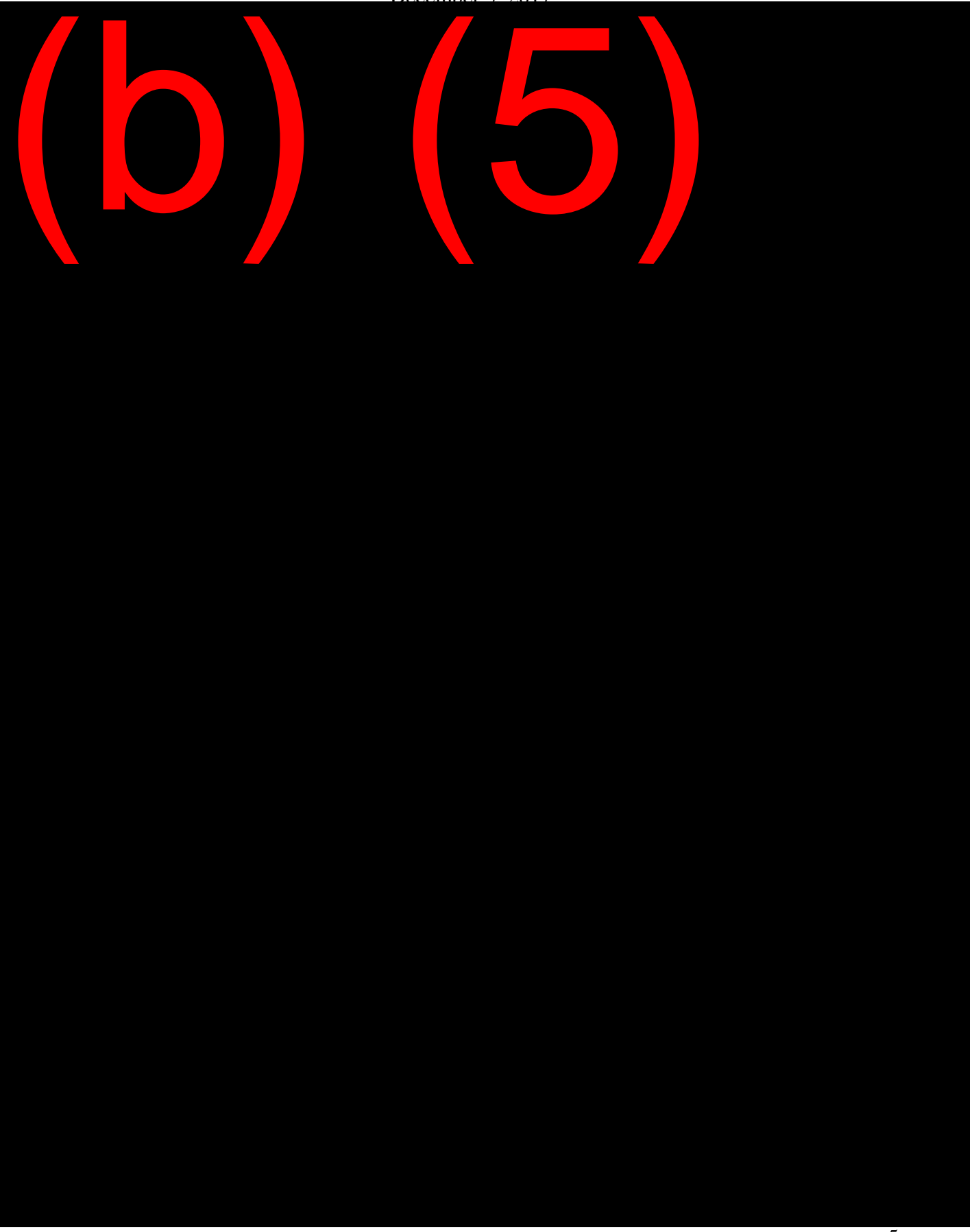
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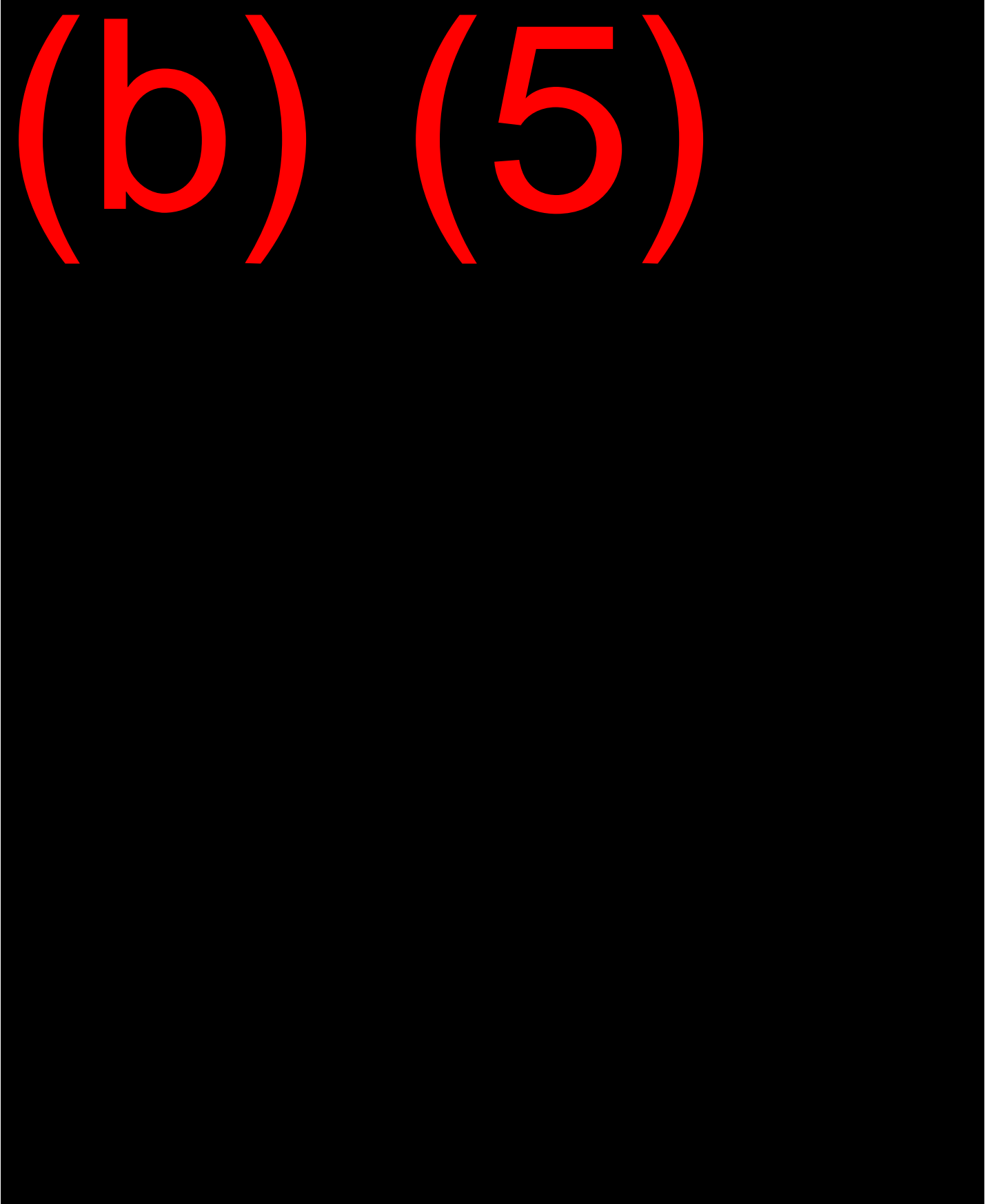
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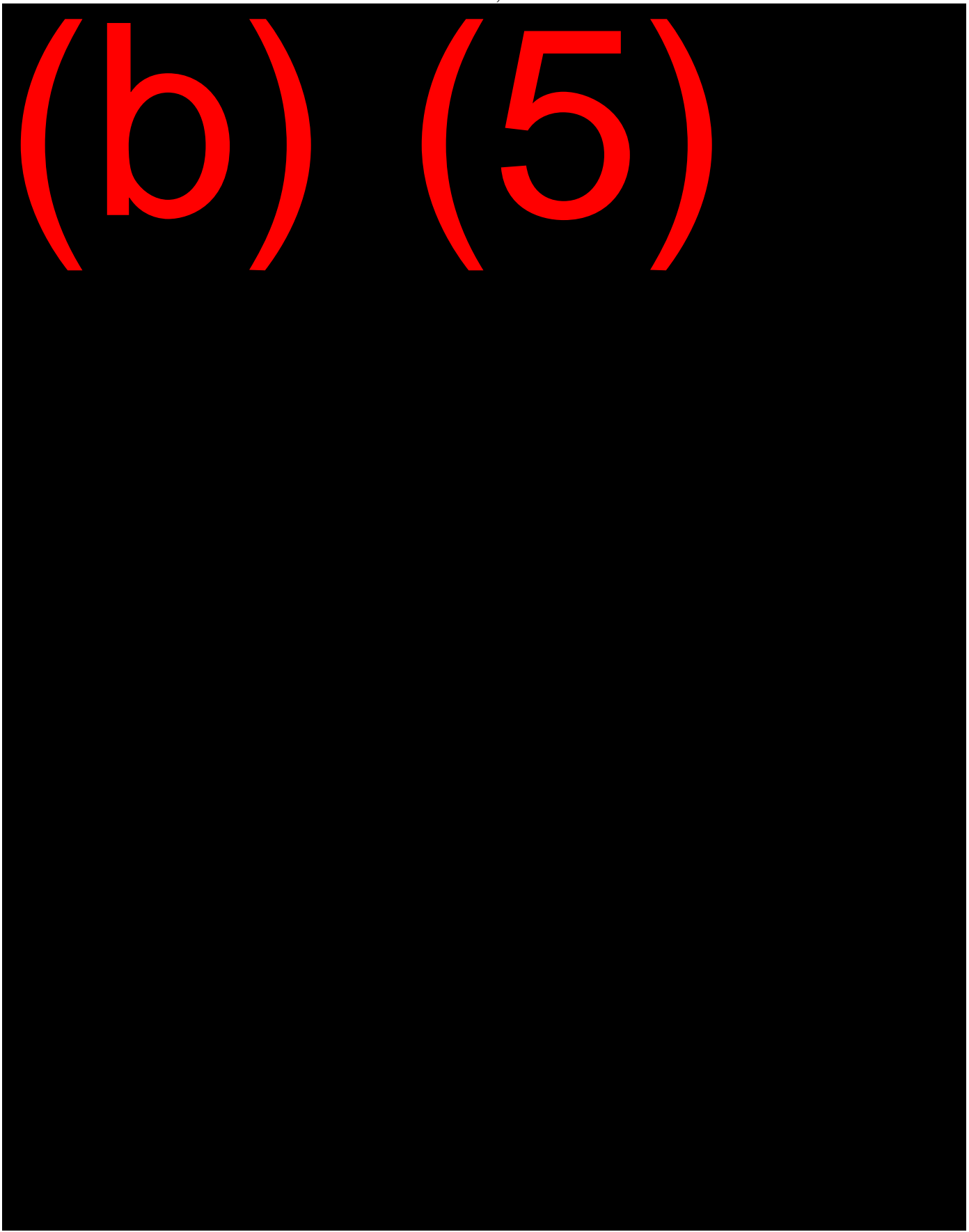


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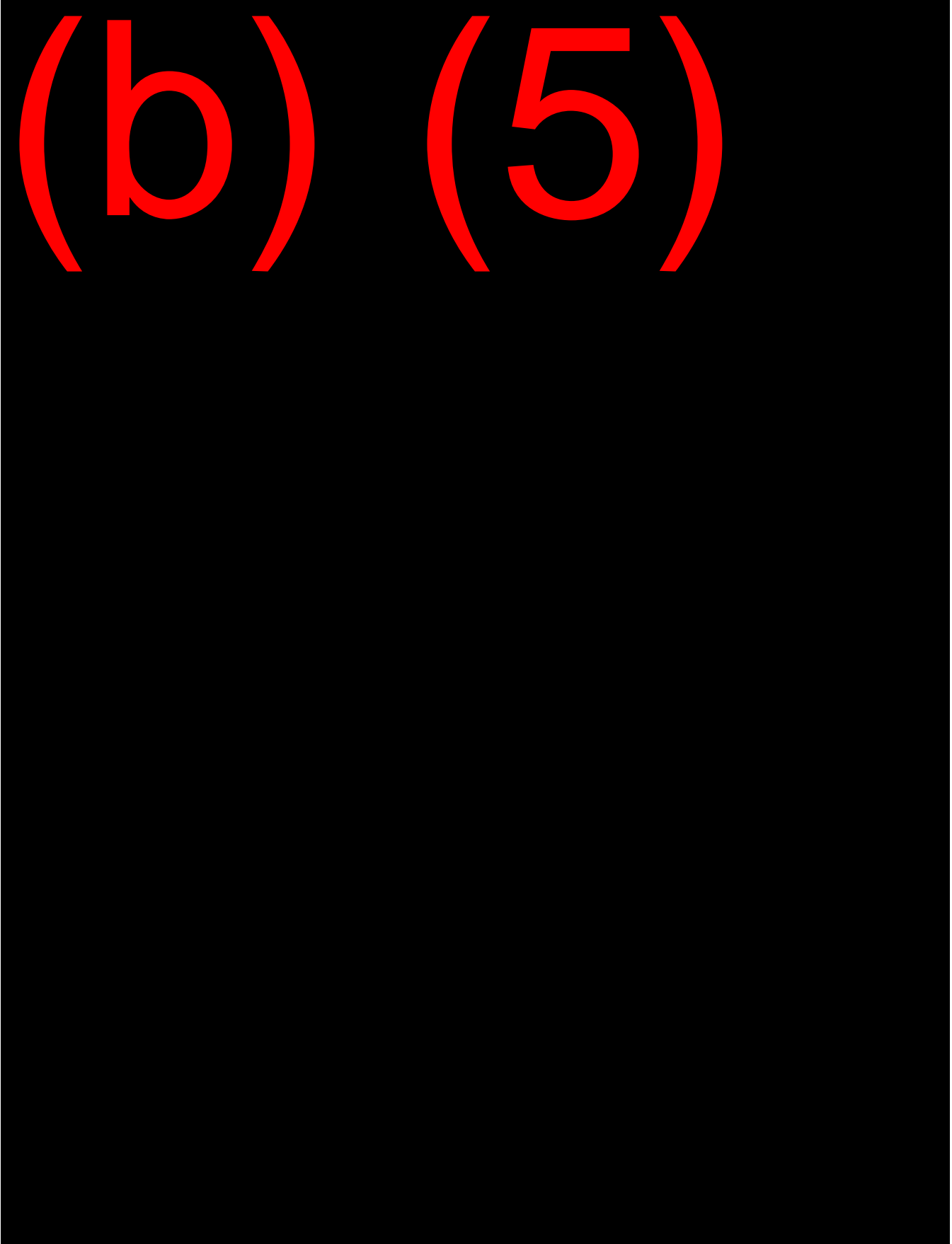




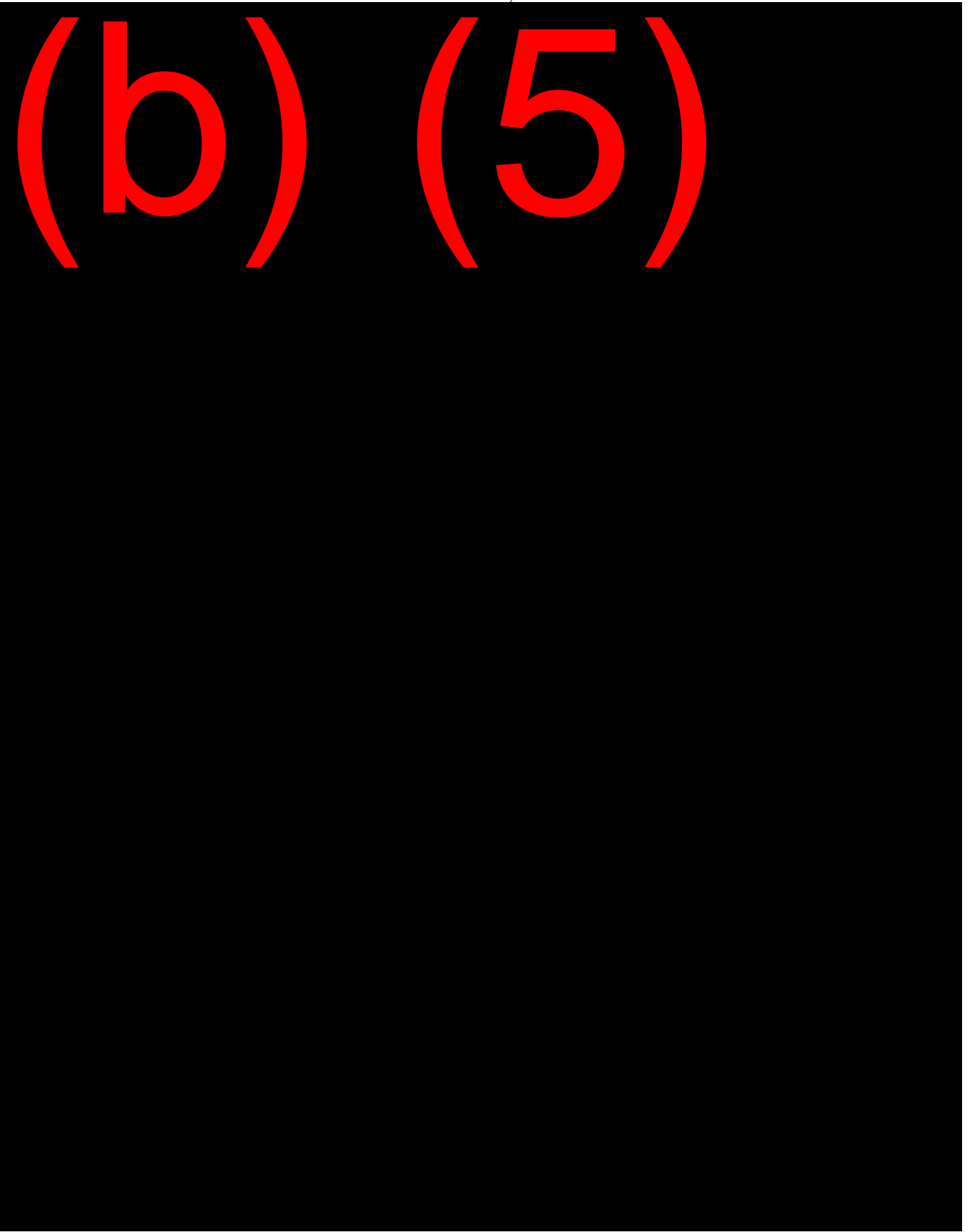
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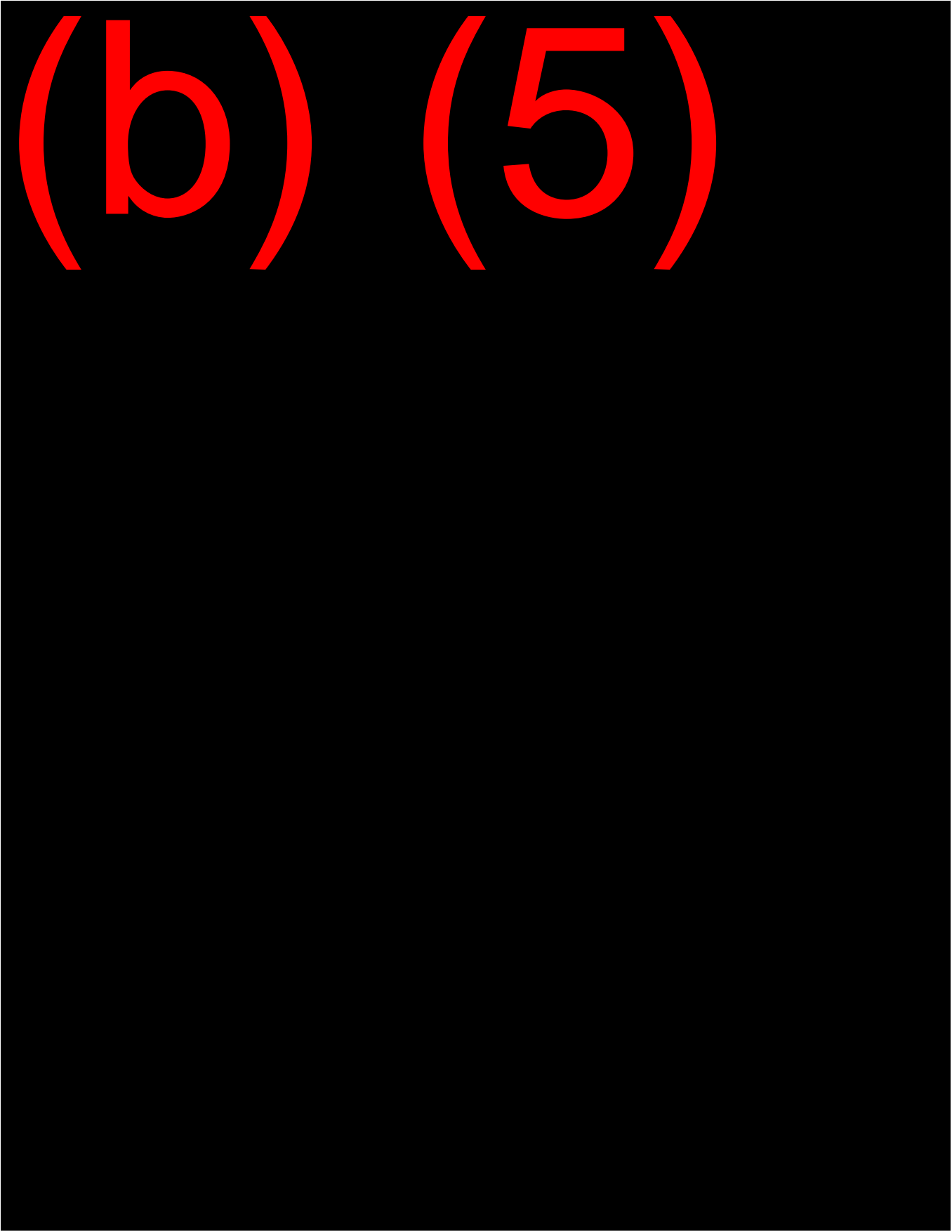
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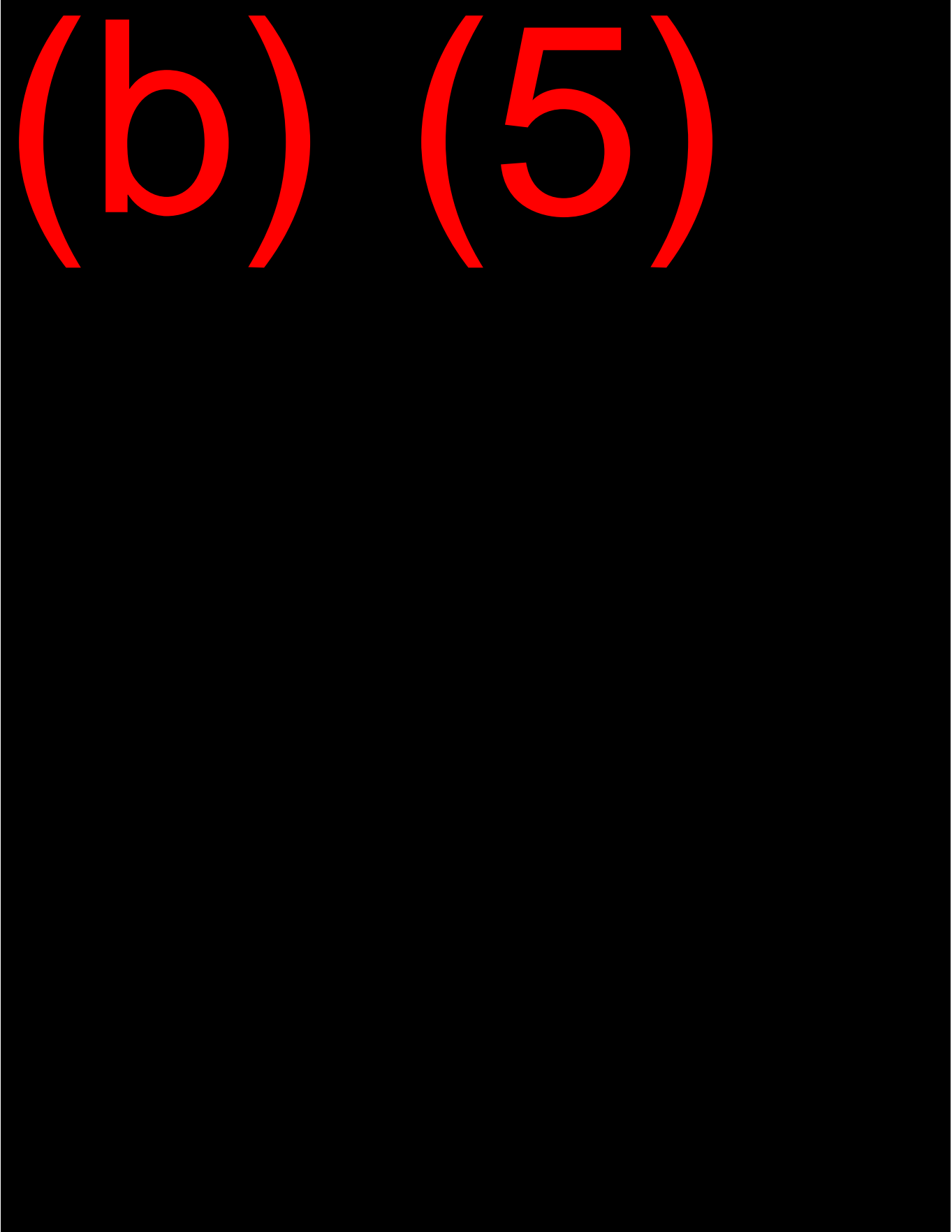
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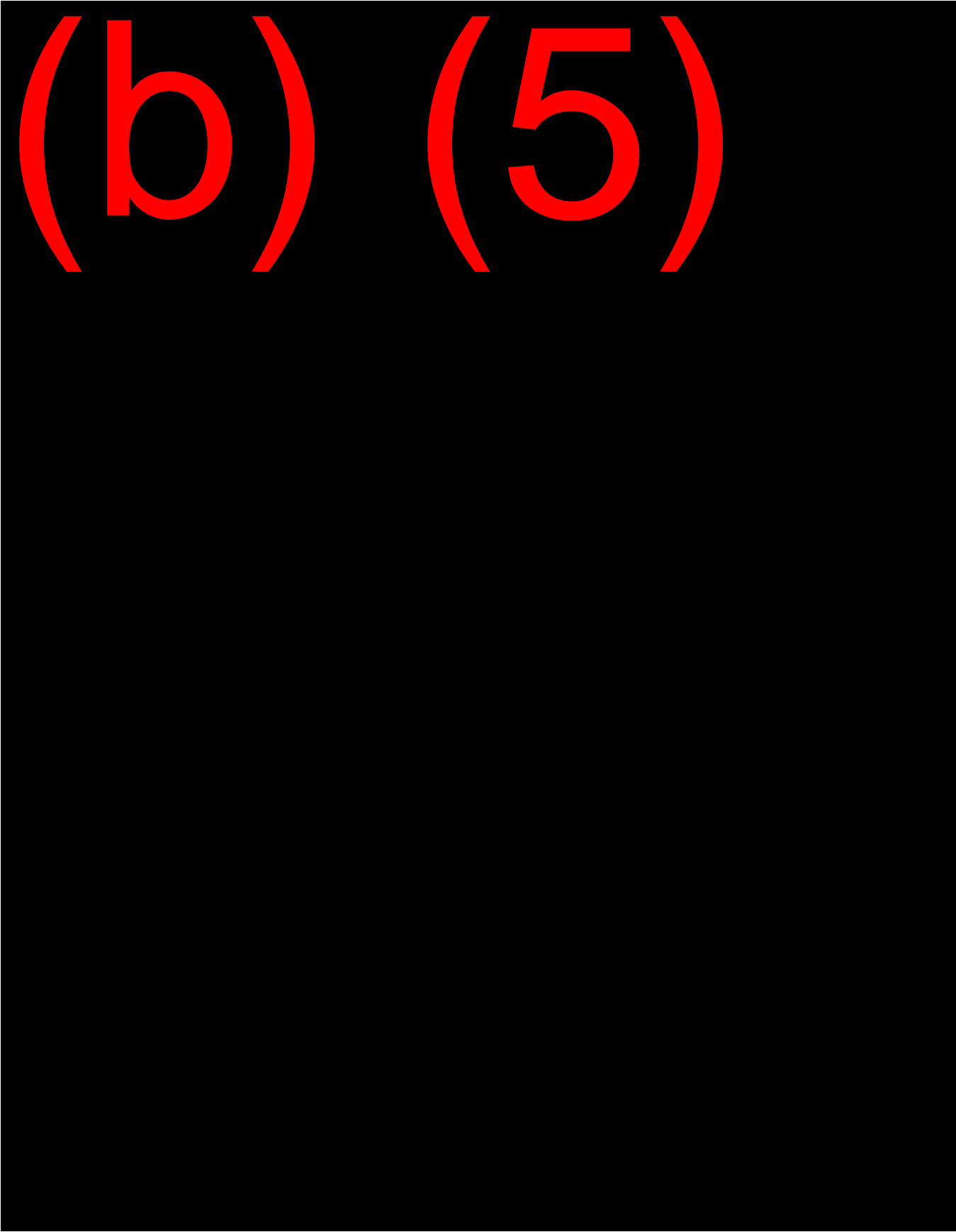
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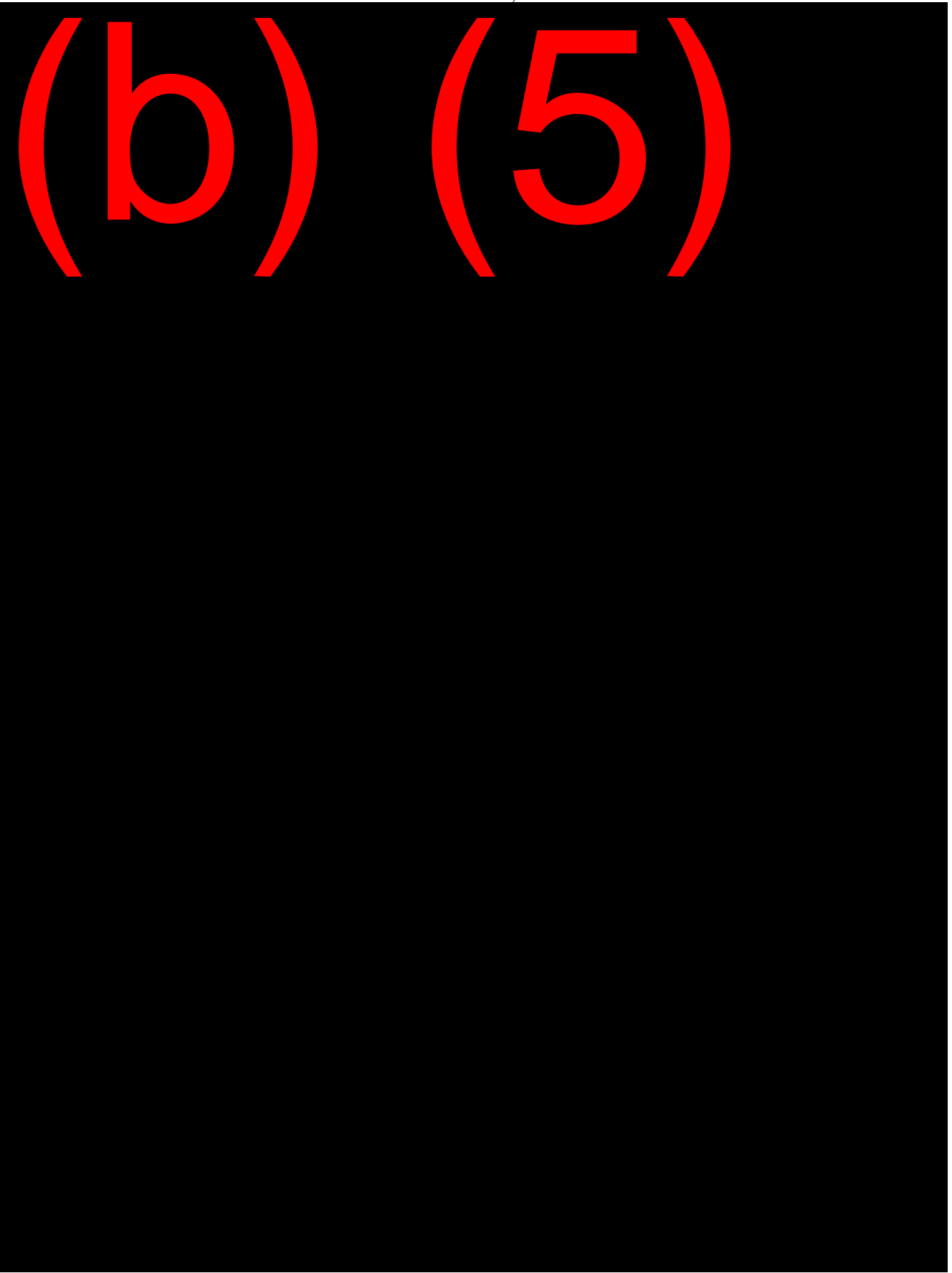
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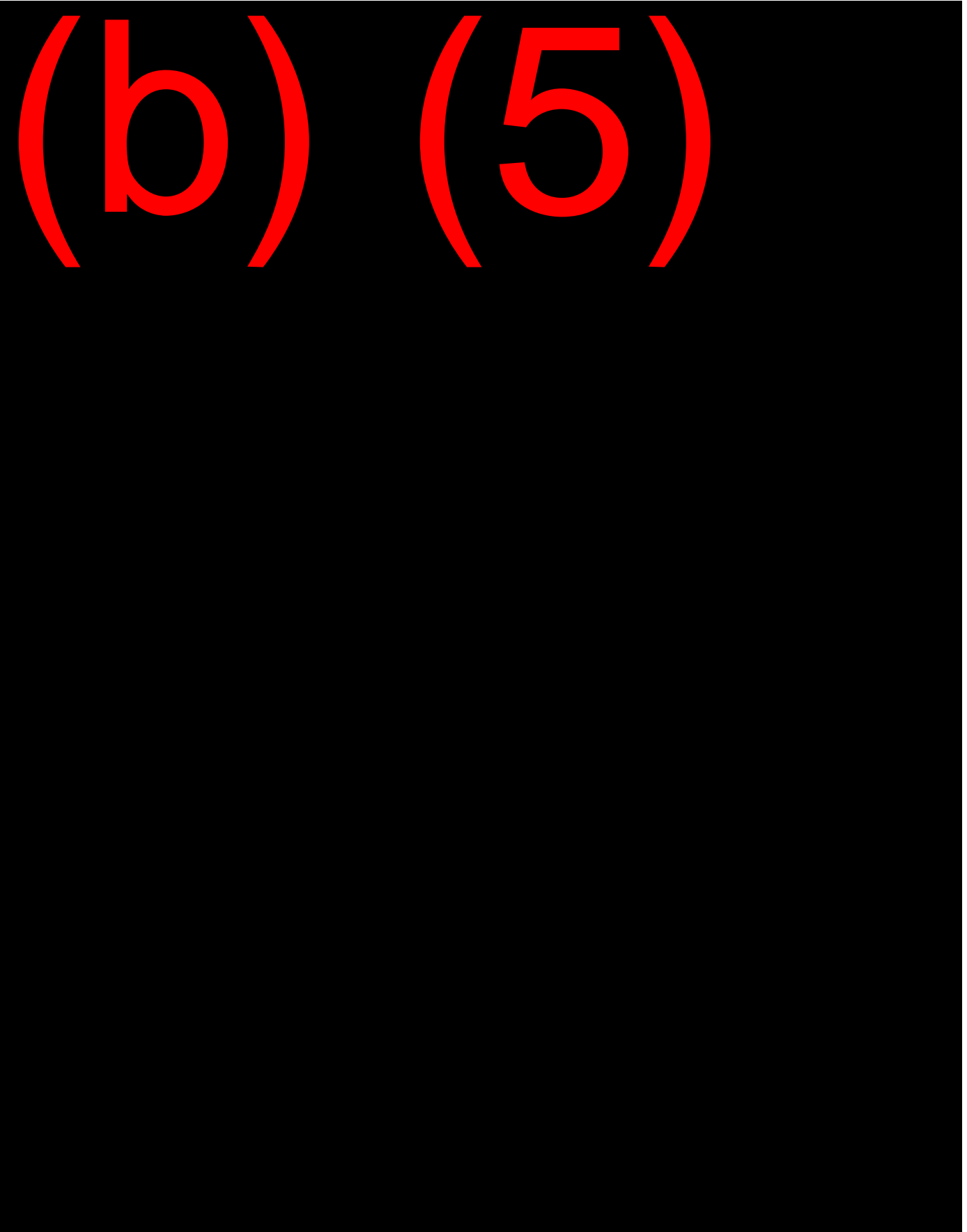
(b) (5)



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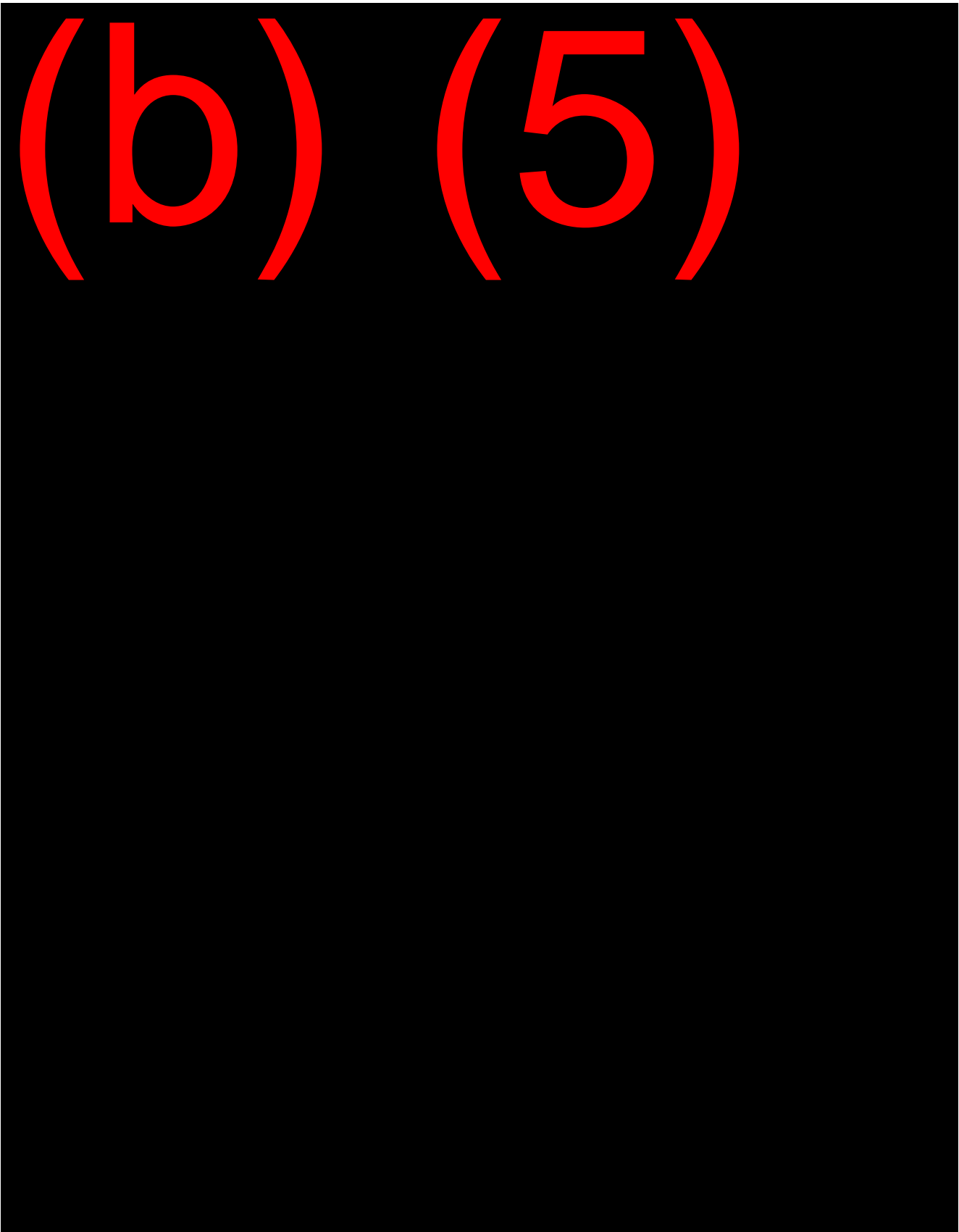


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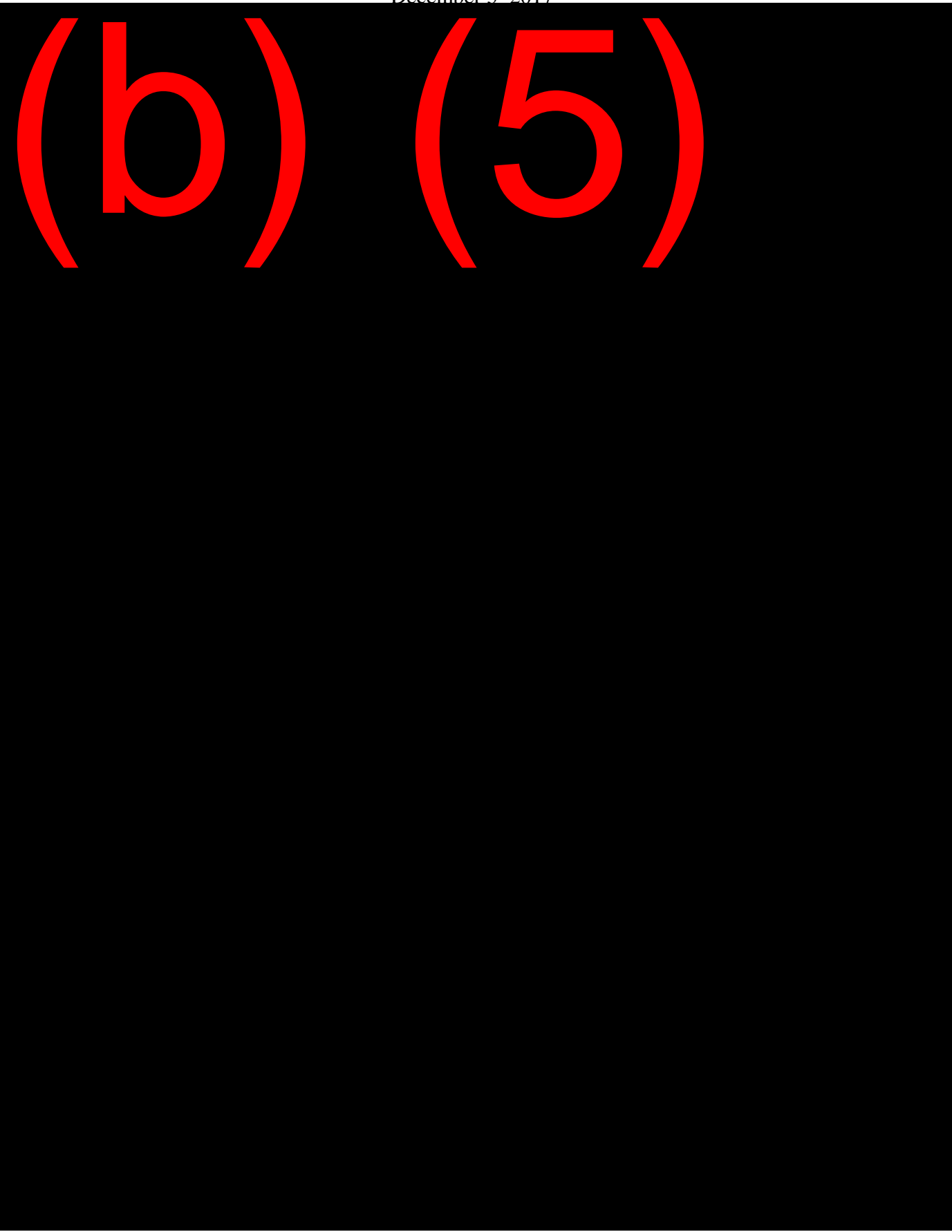




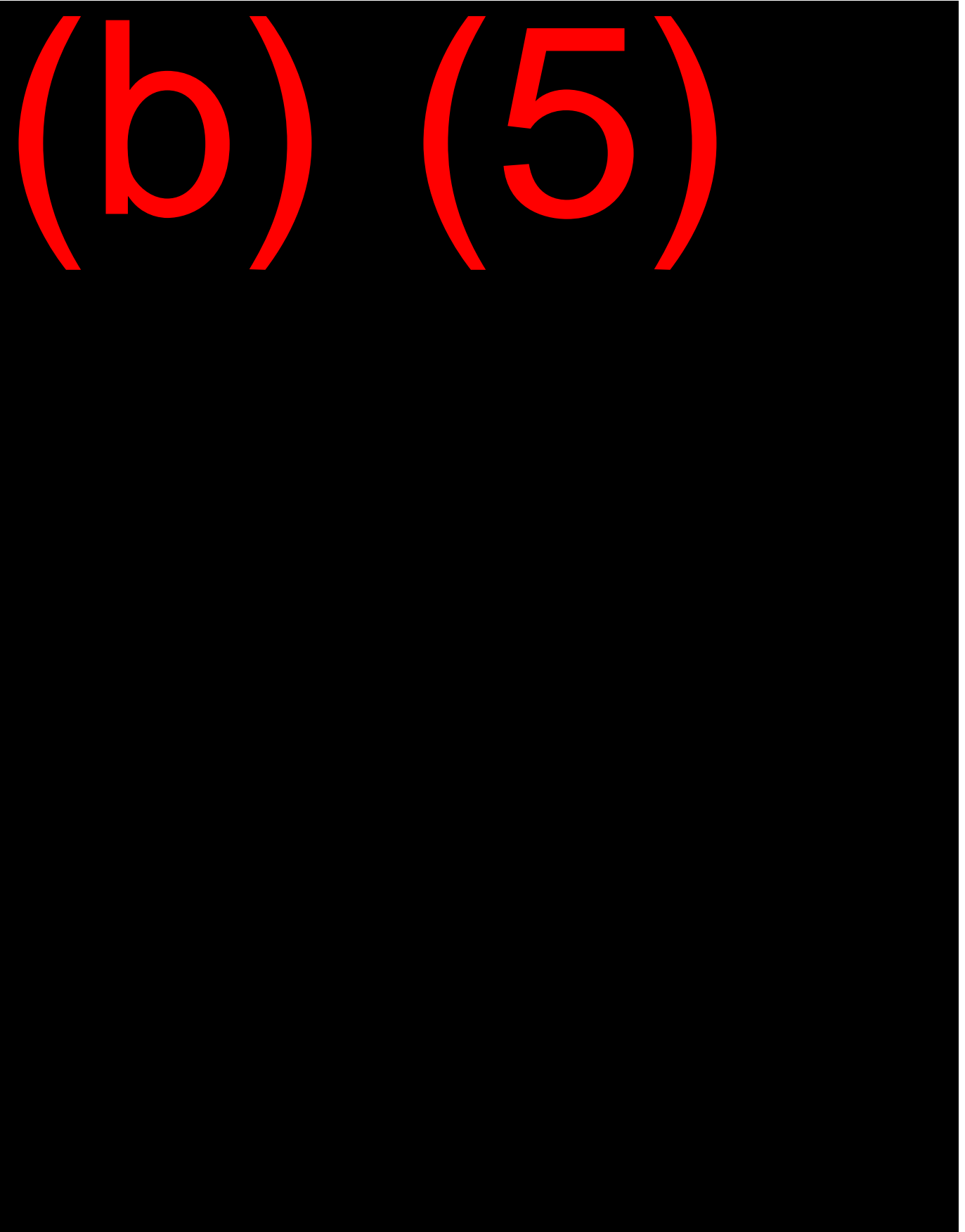
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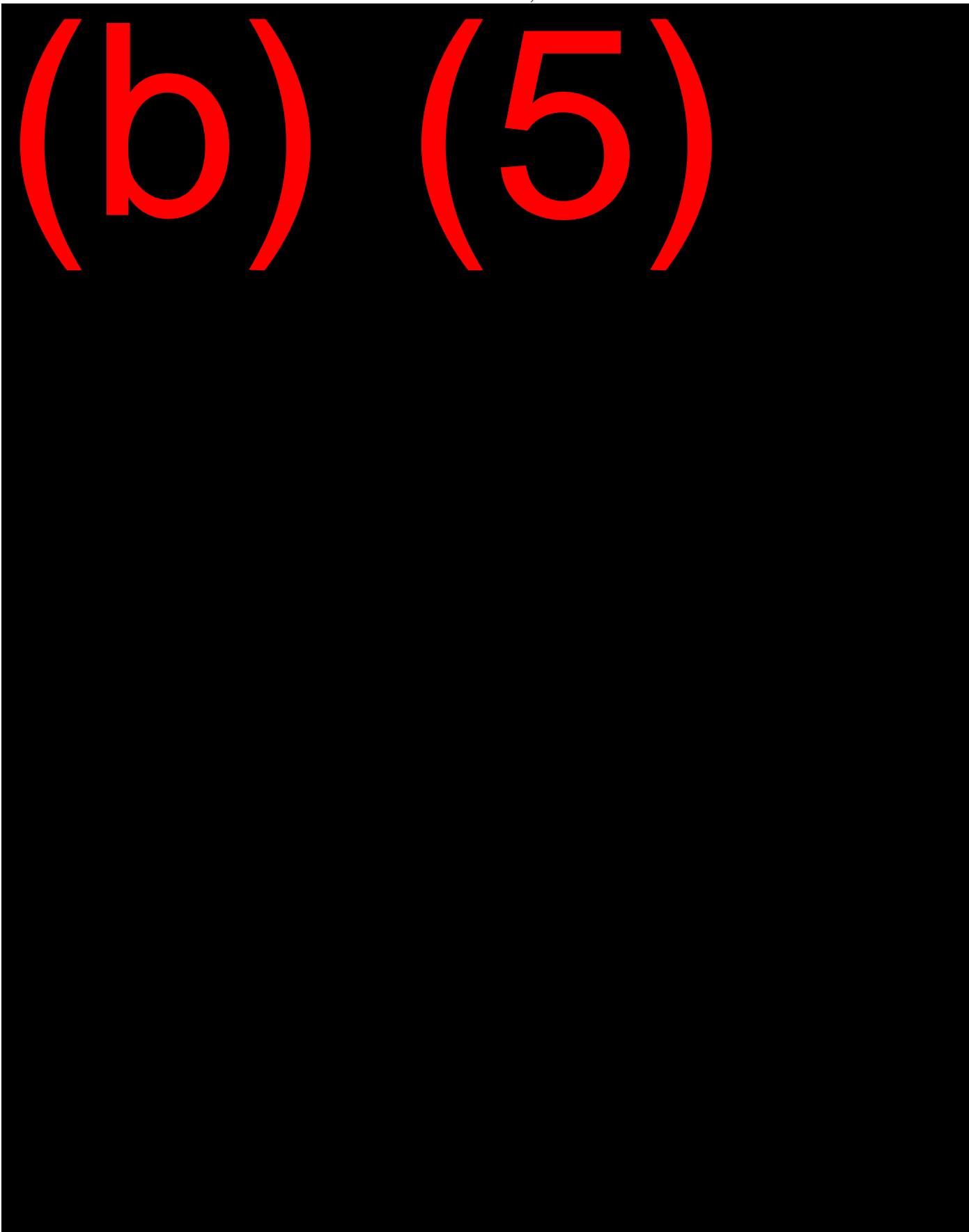
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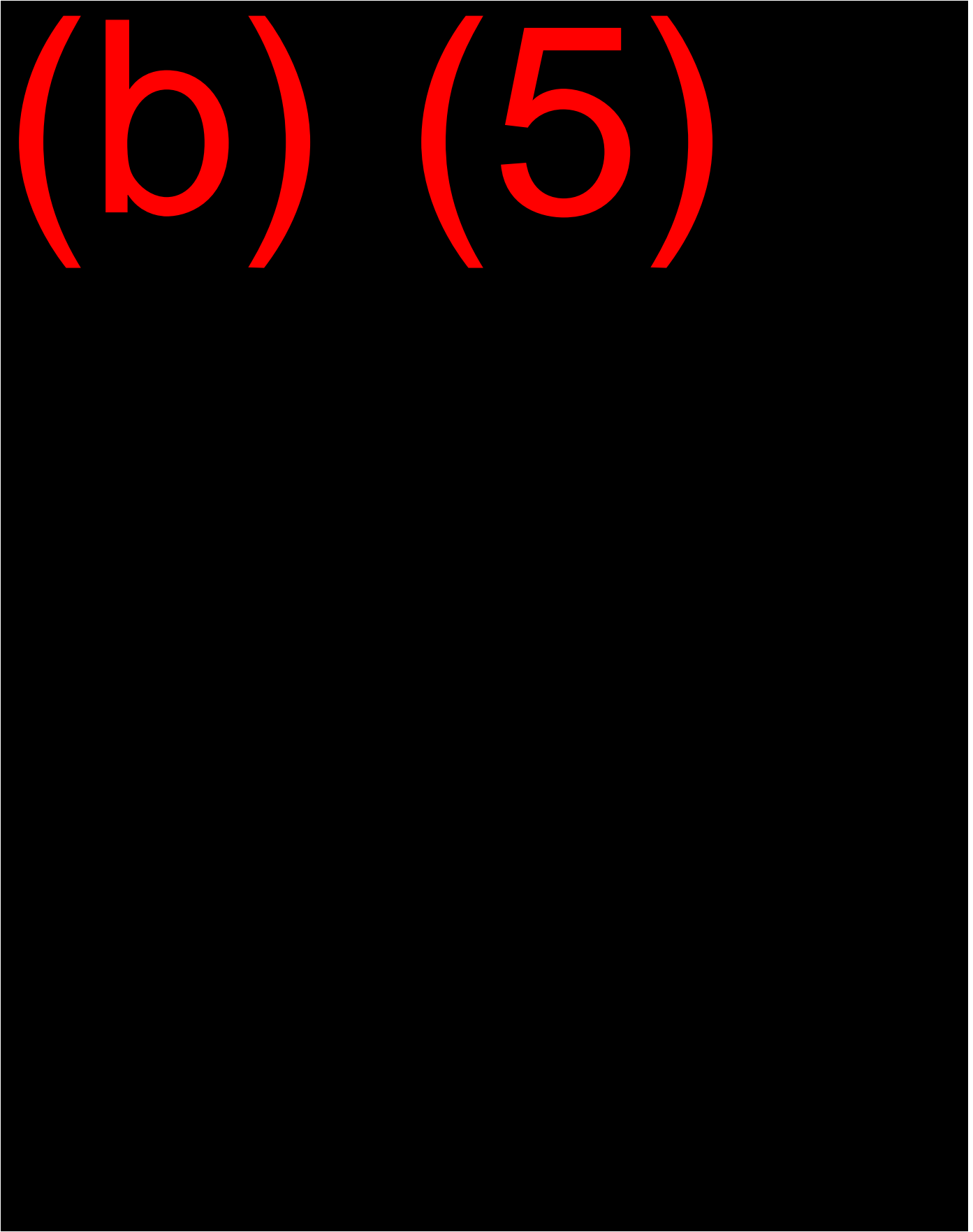
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December 5, 2017

M-

Memorandum

To: Director, Bureau of Land Management

From: Solicitor

Subject: Reversal of M-37036, “Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-01353)”

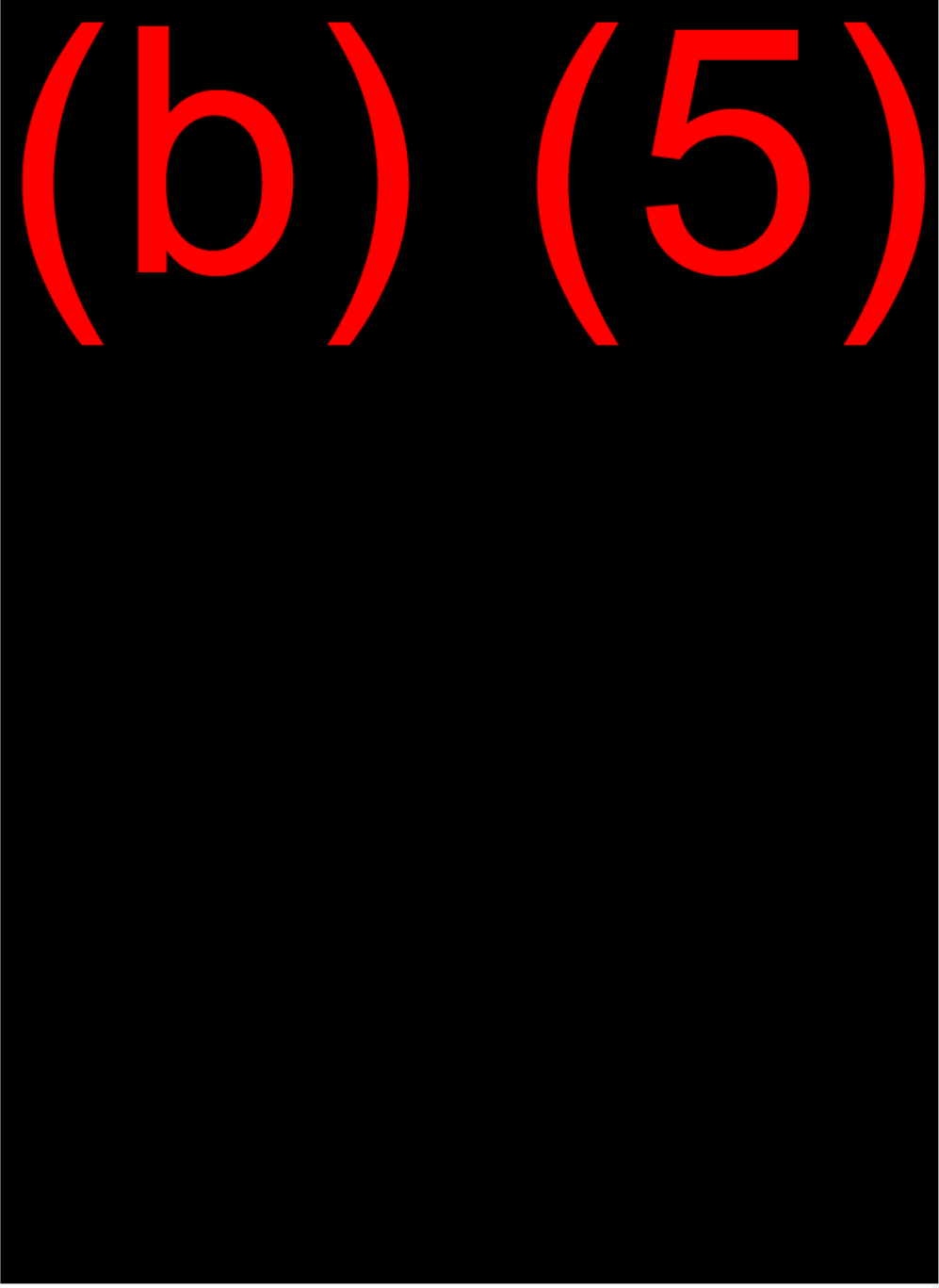
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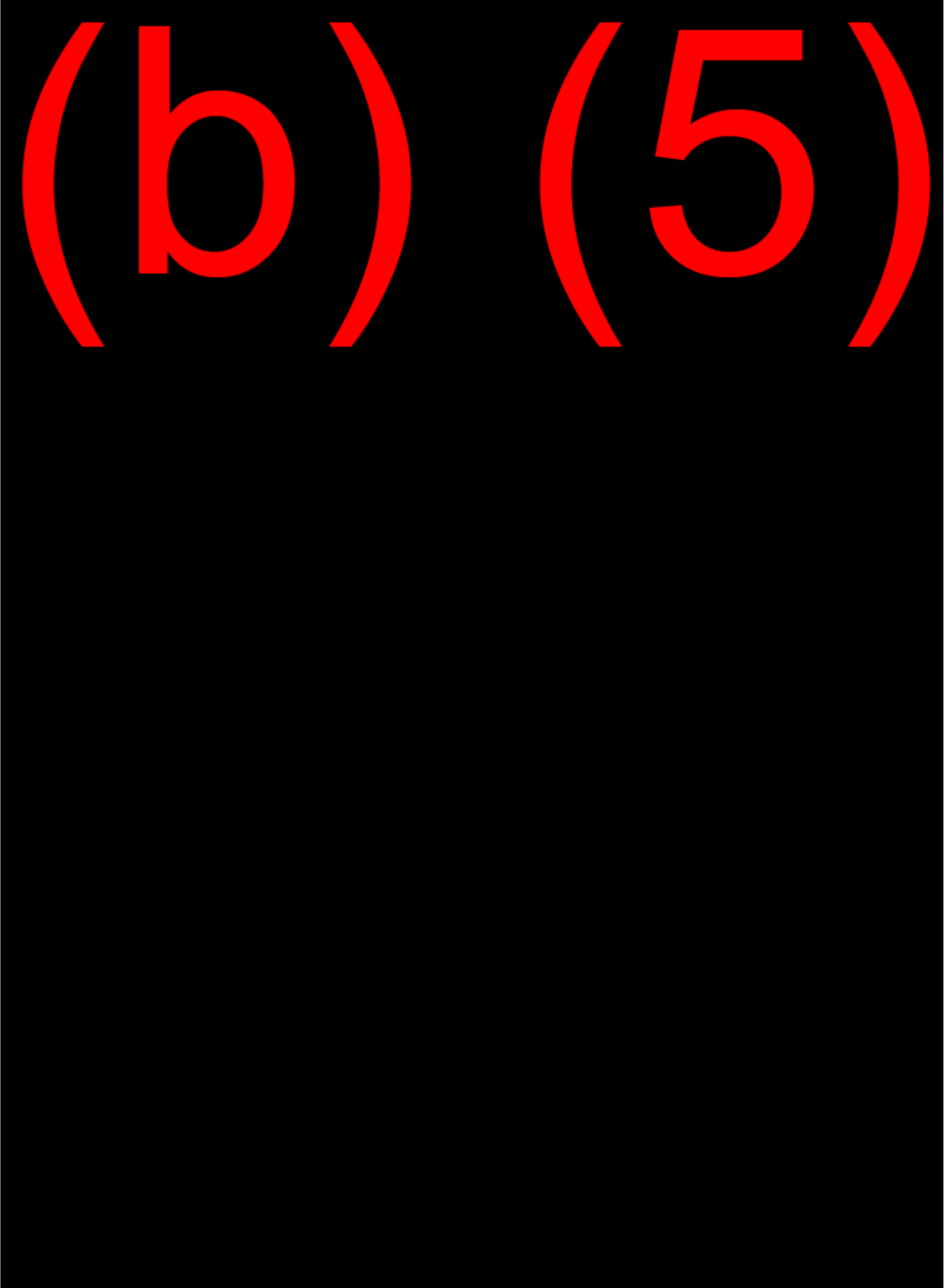
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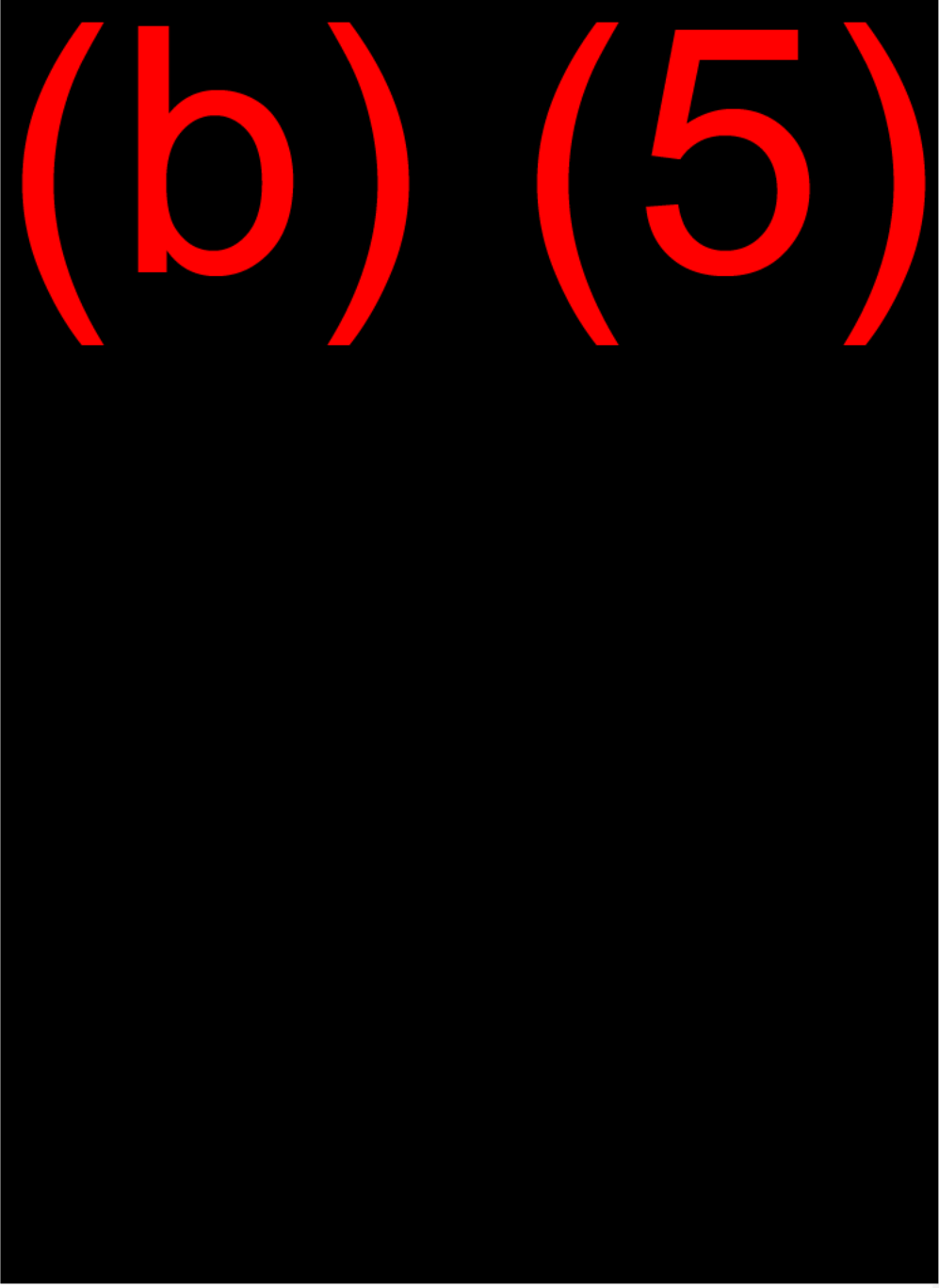




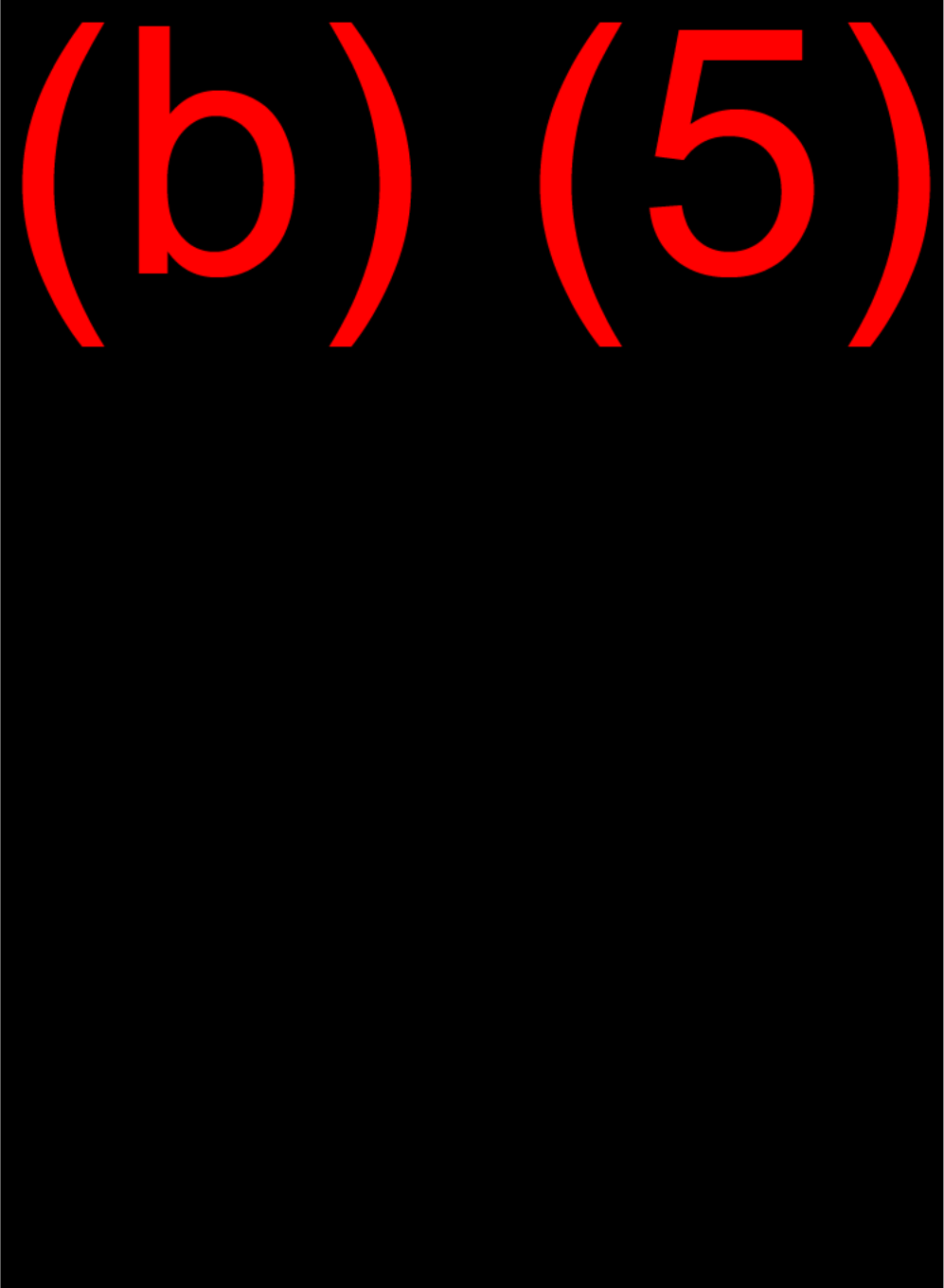
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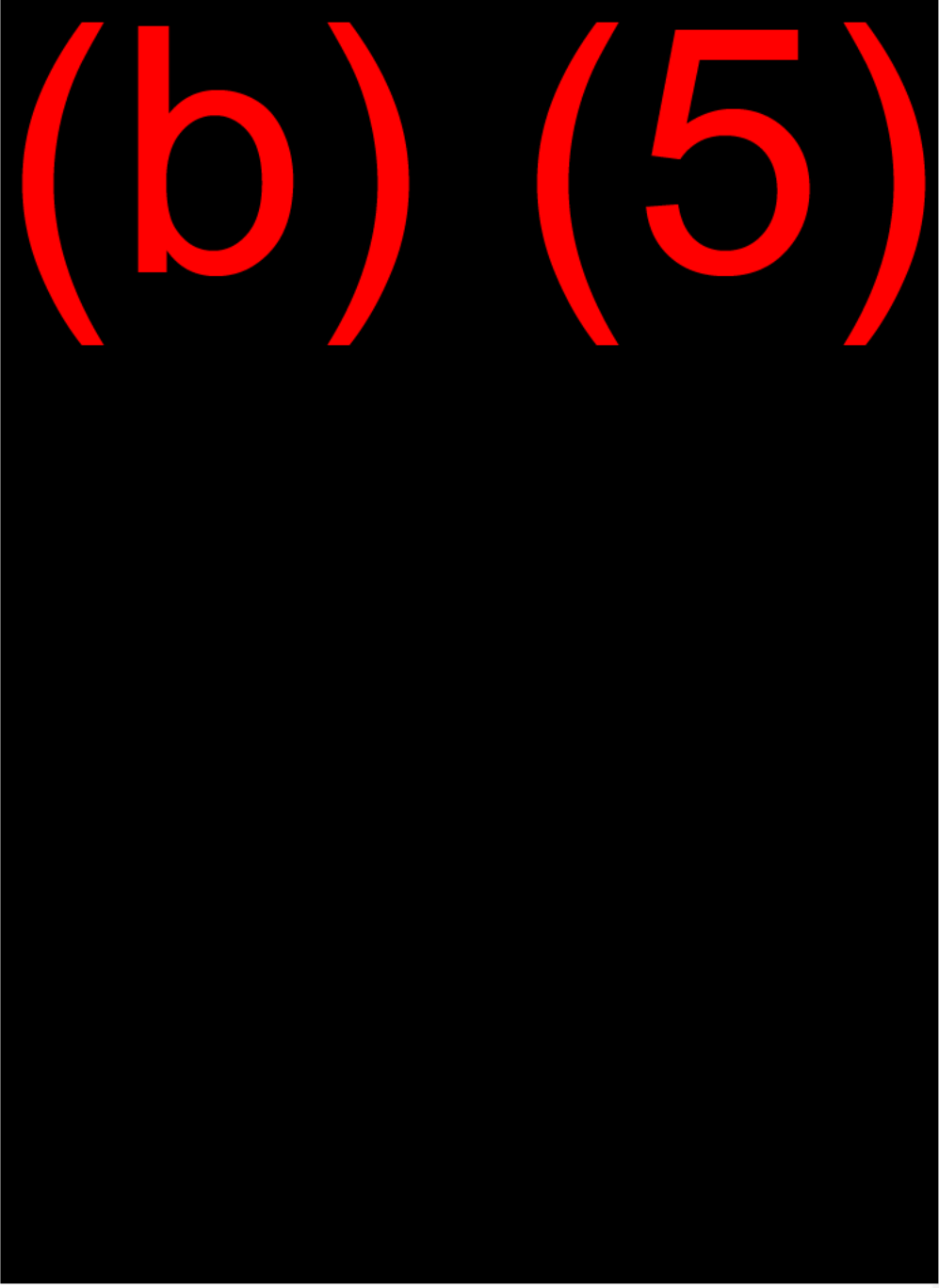
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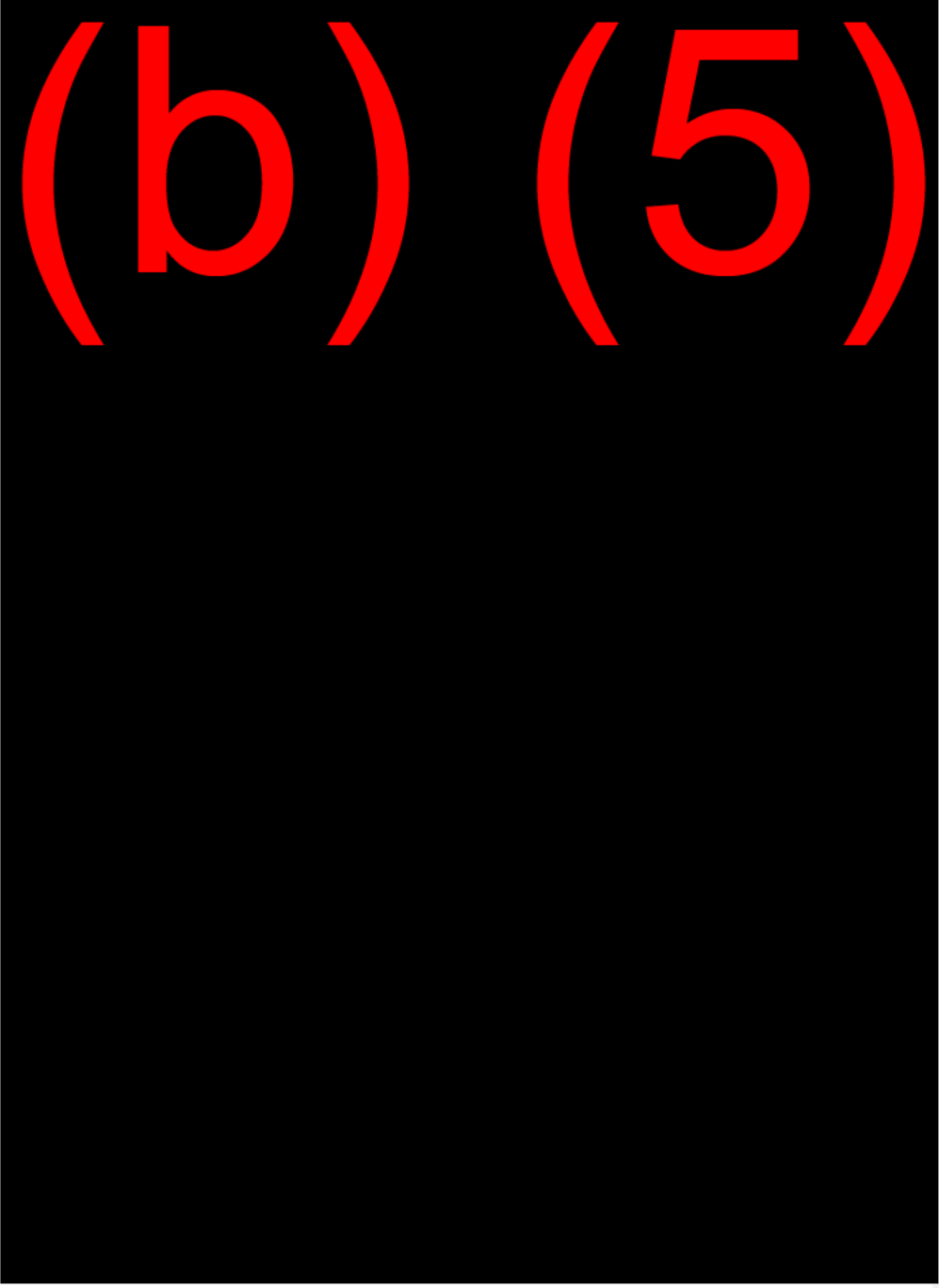
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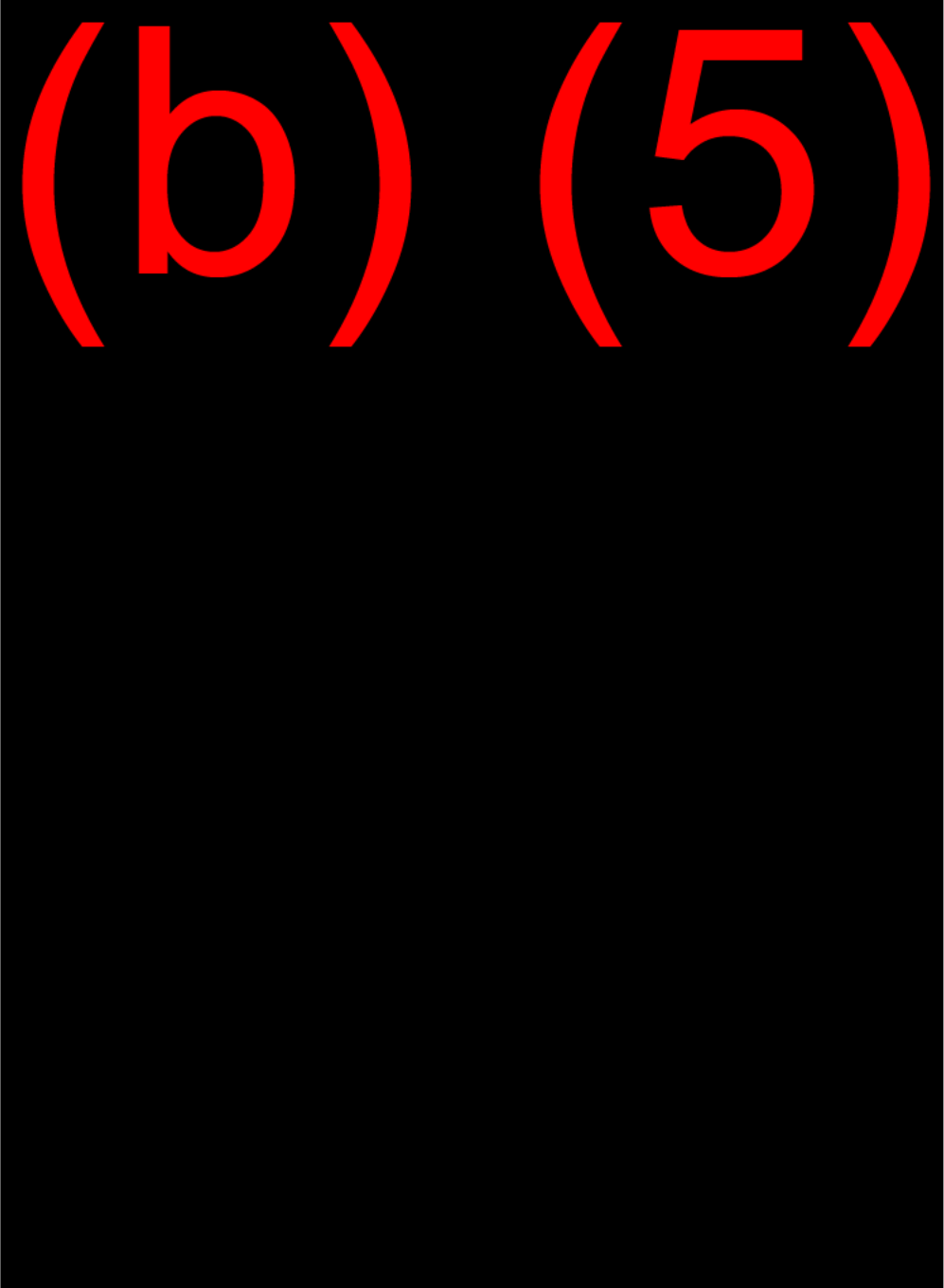
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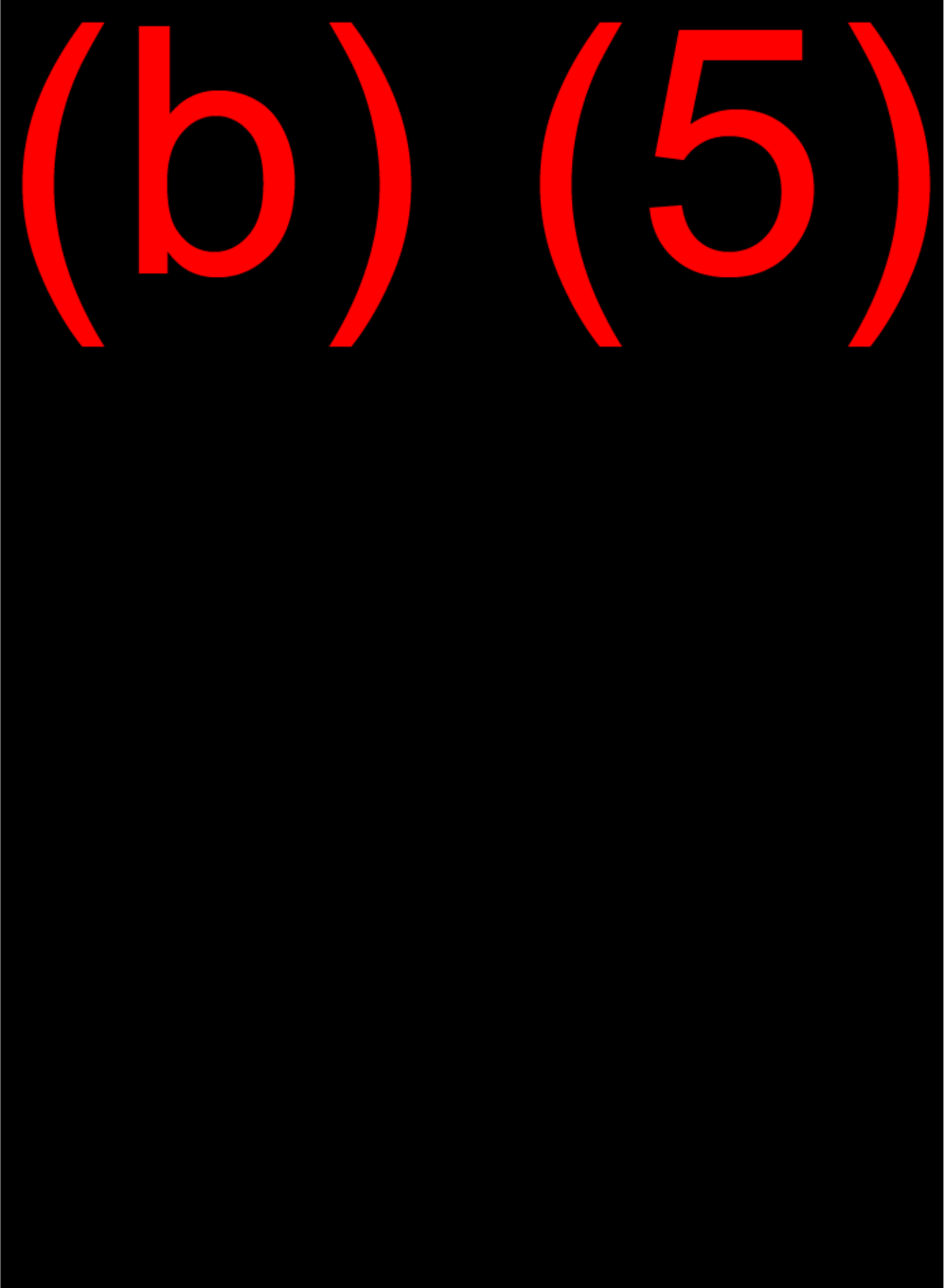
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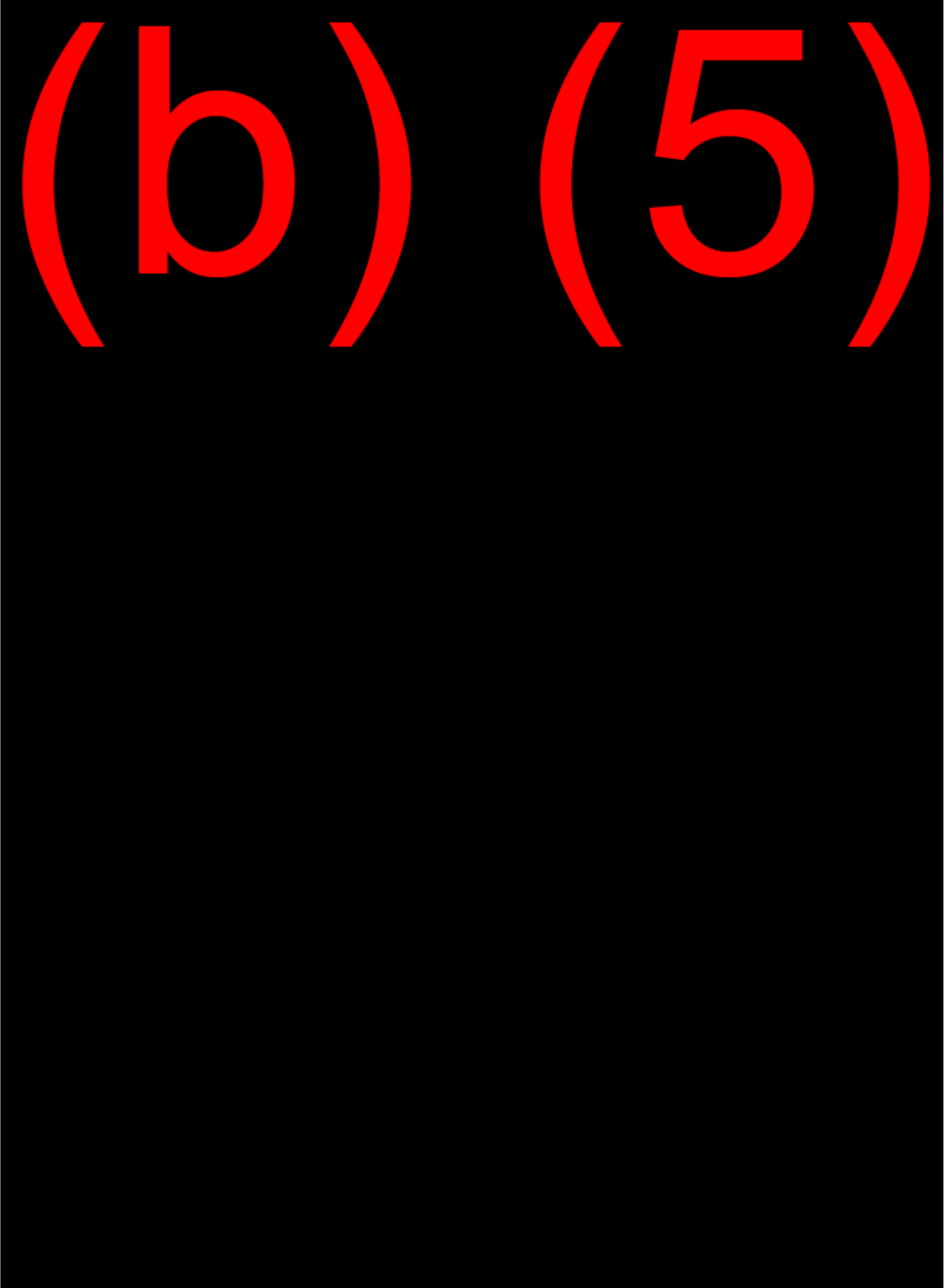


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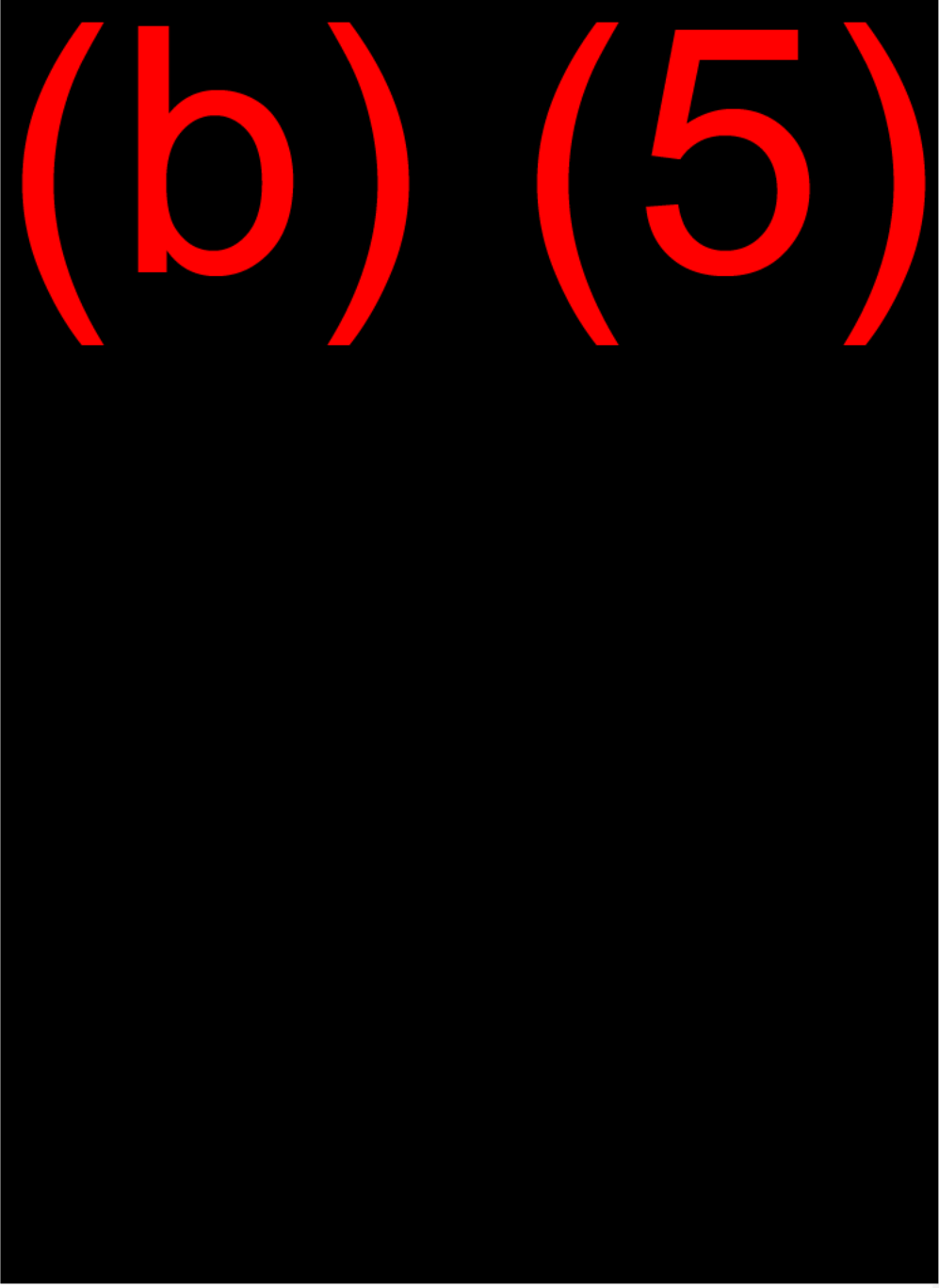




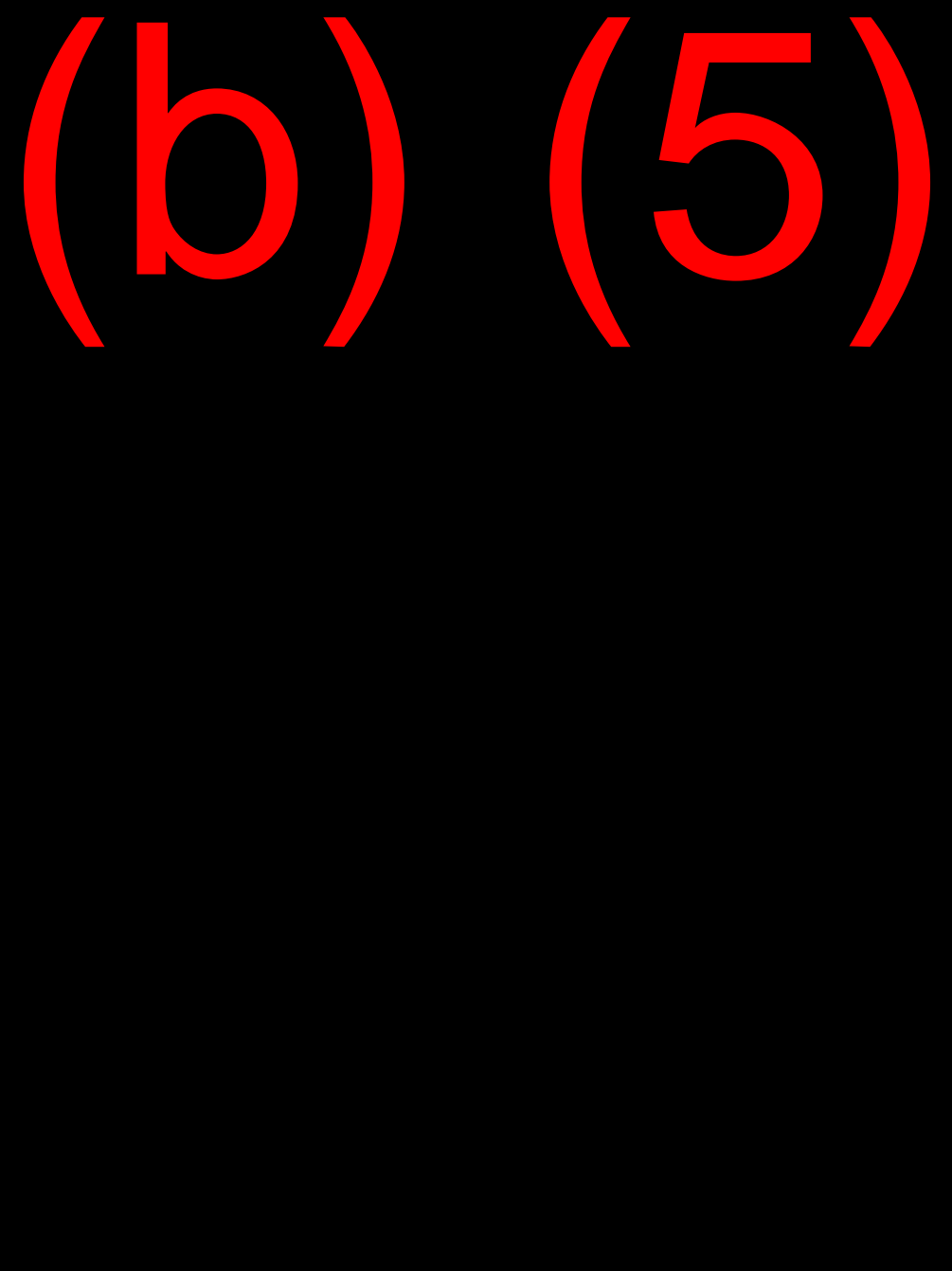
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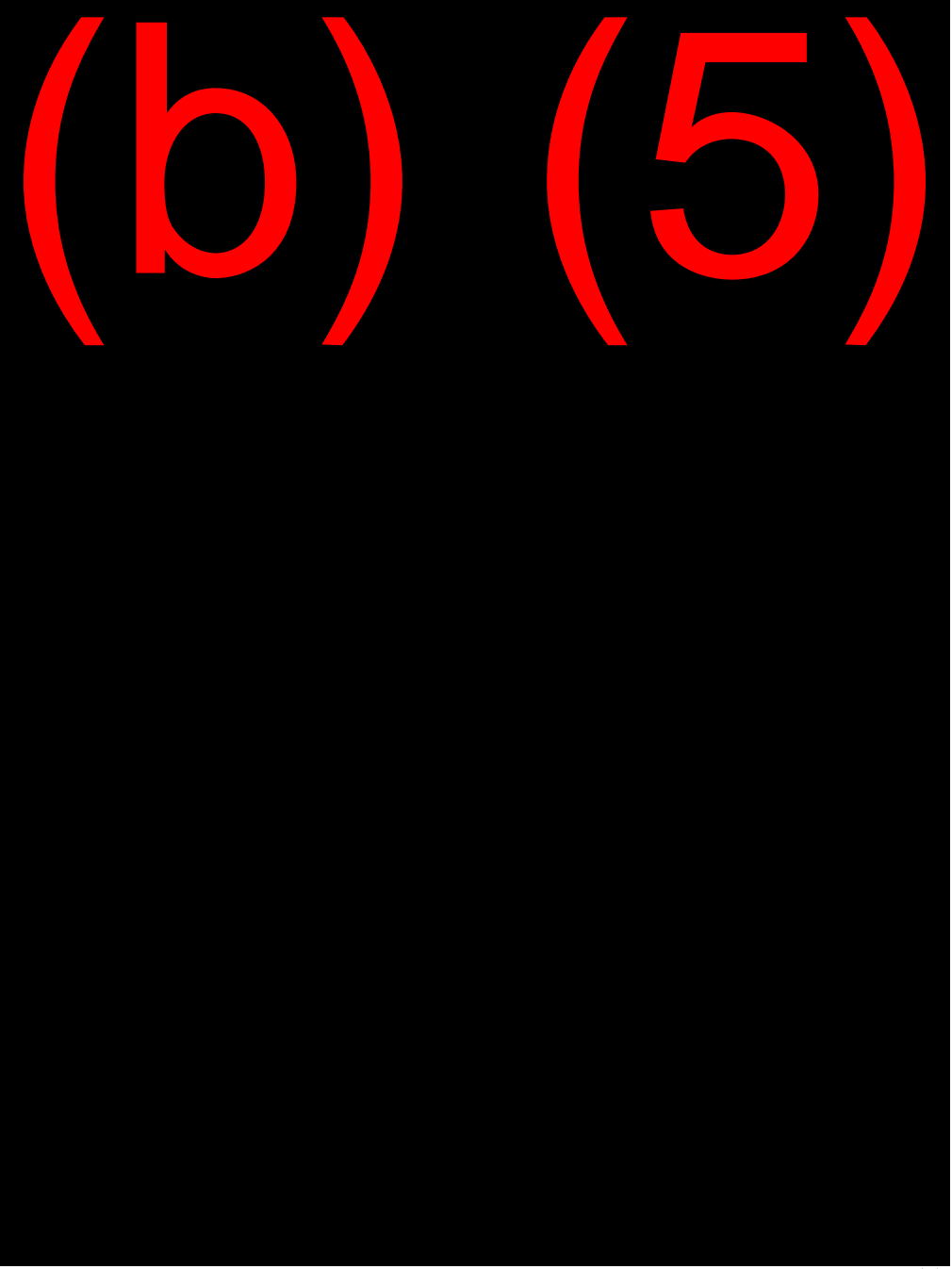
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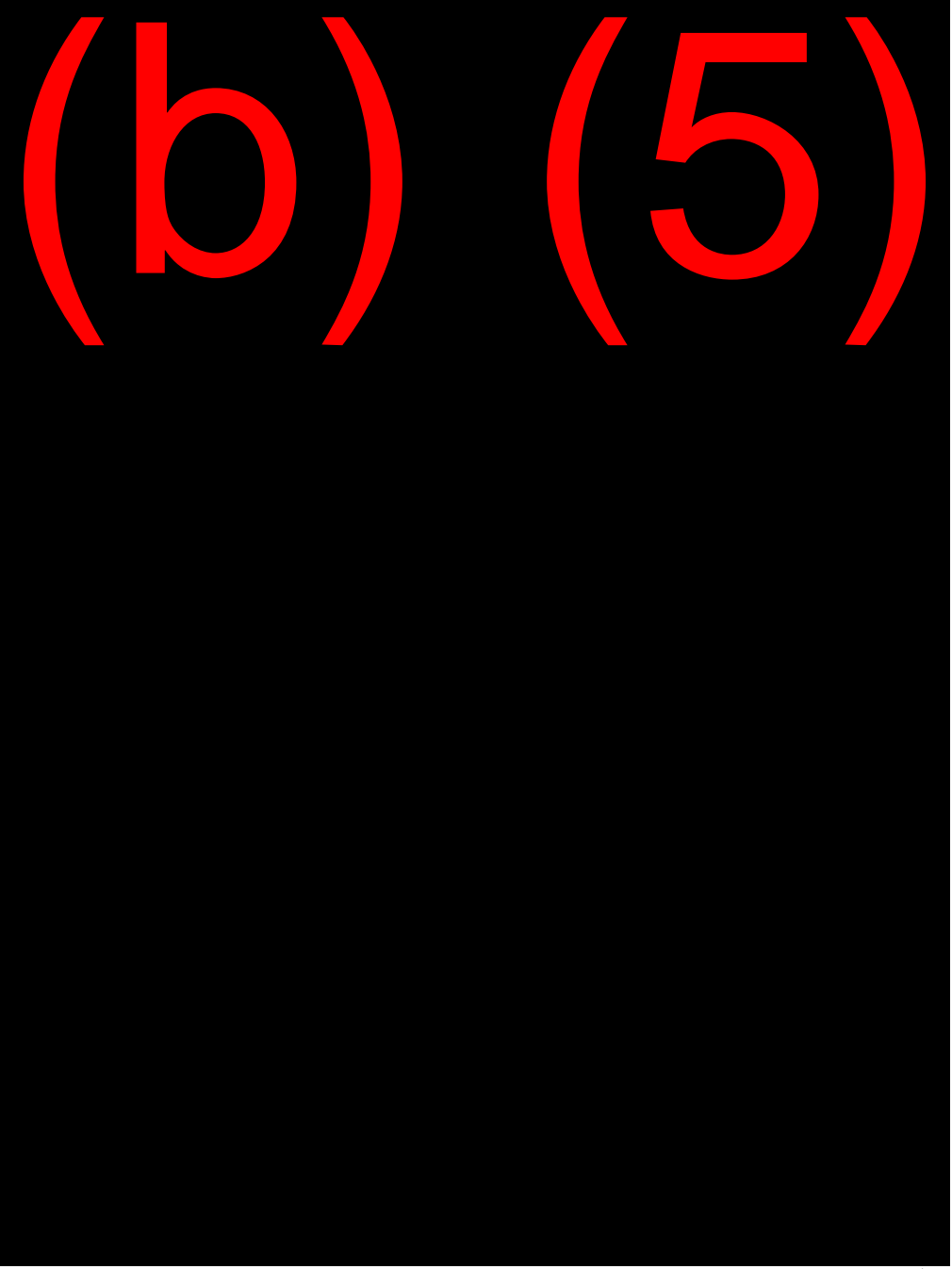
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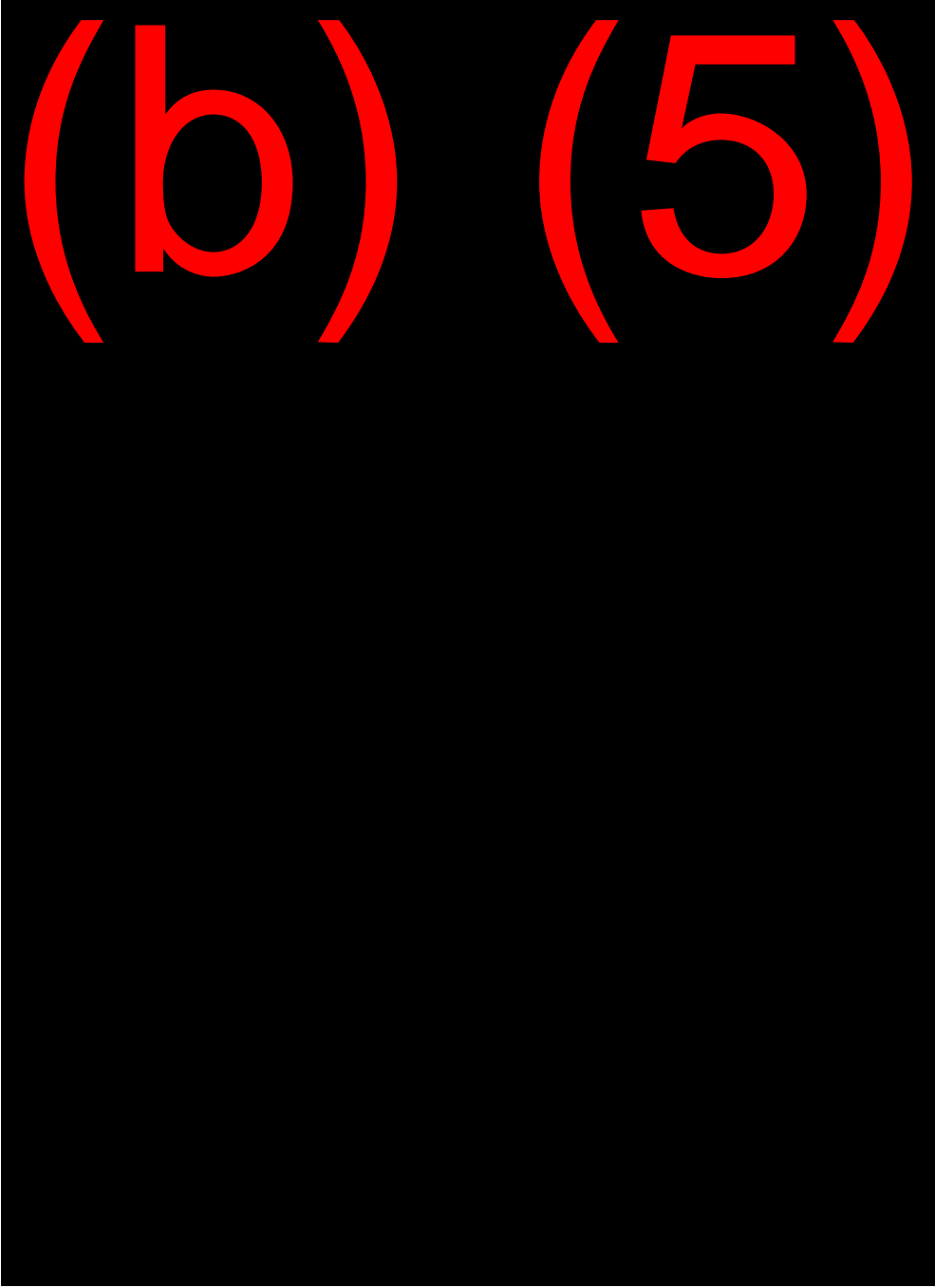
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December 5, 2017

M-

Memorandum

To: Director, Bureau of Land Management

From: Solicitor

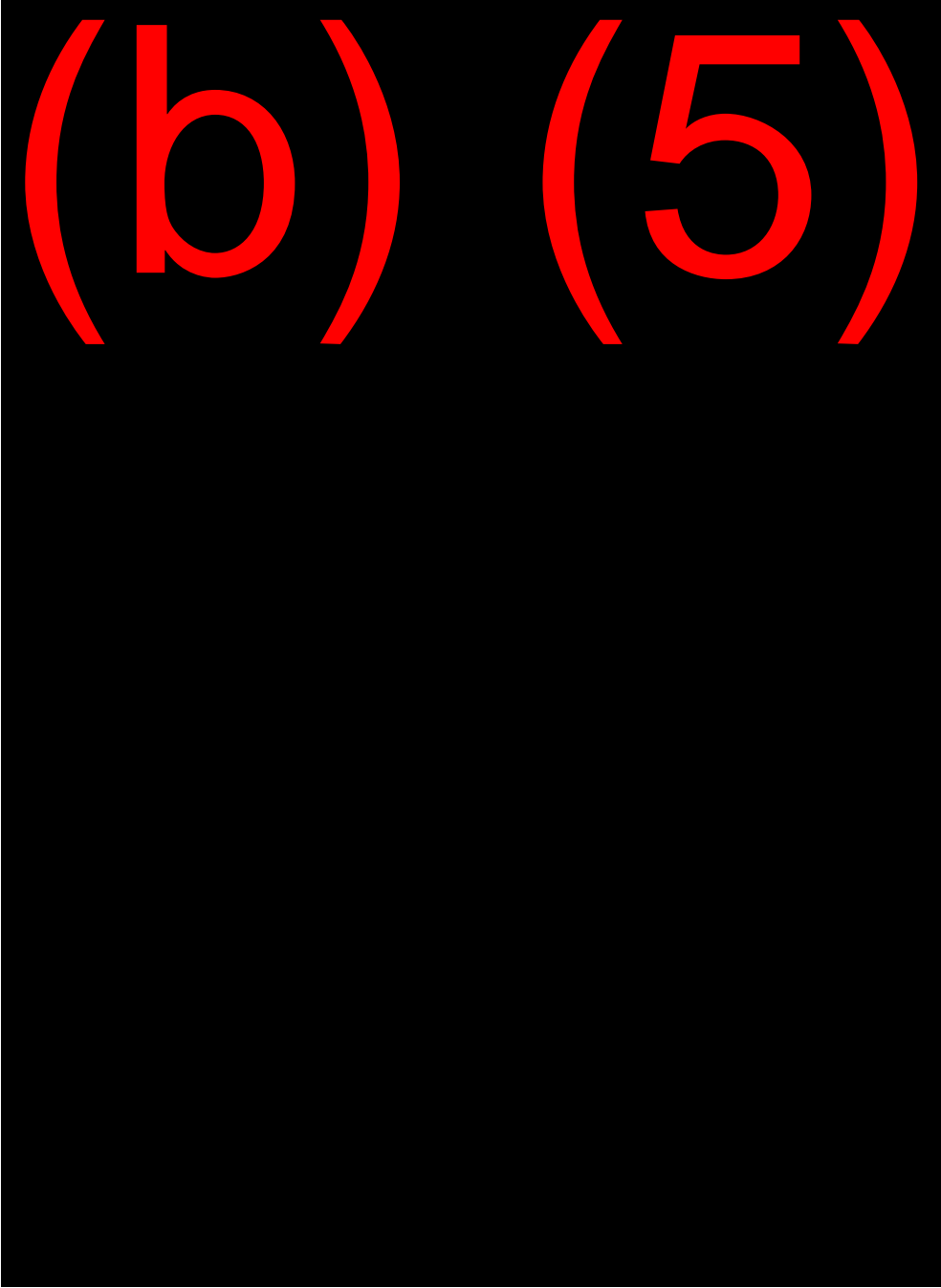
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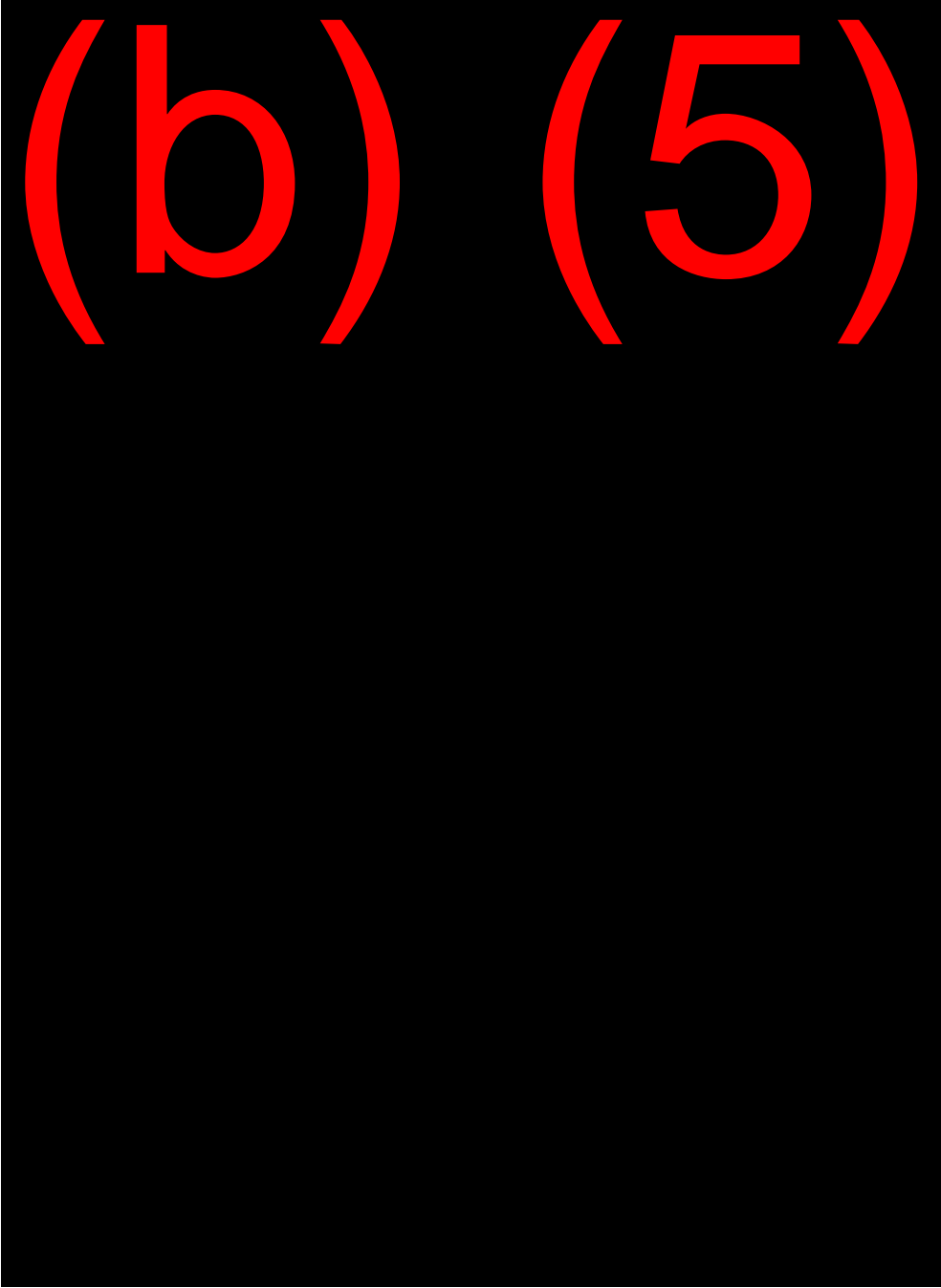
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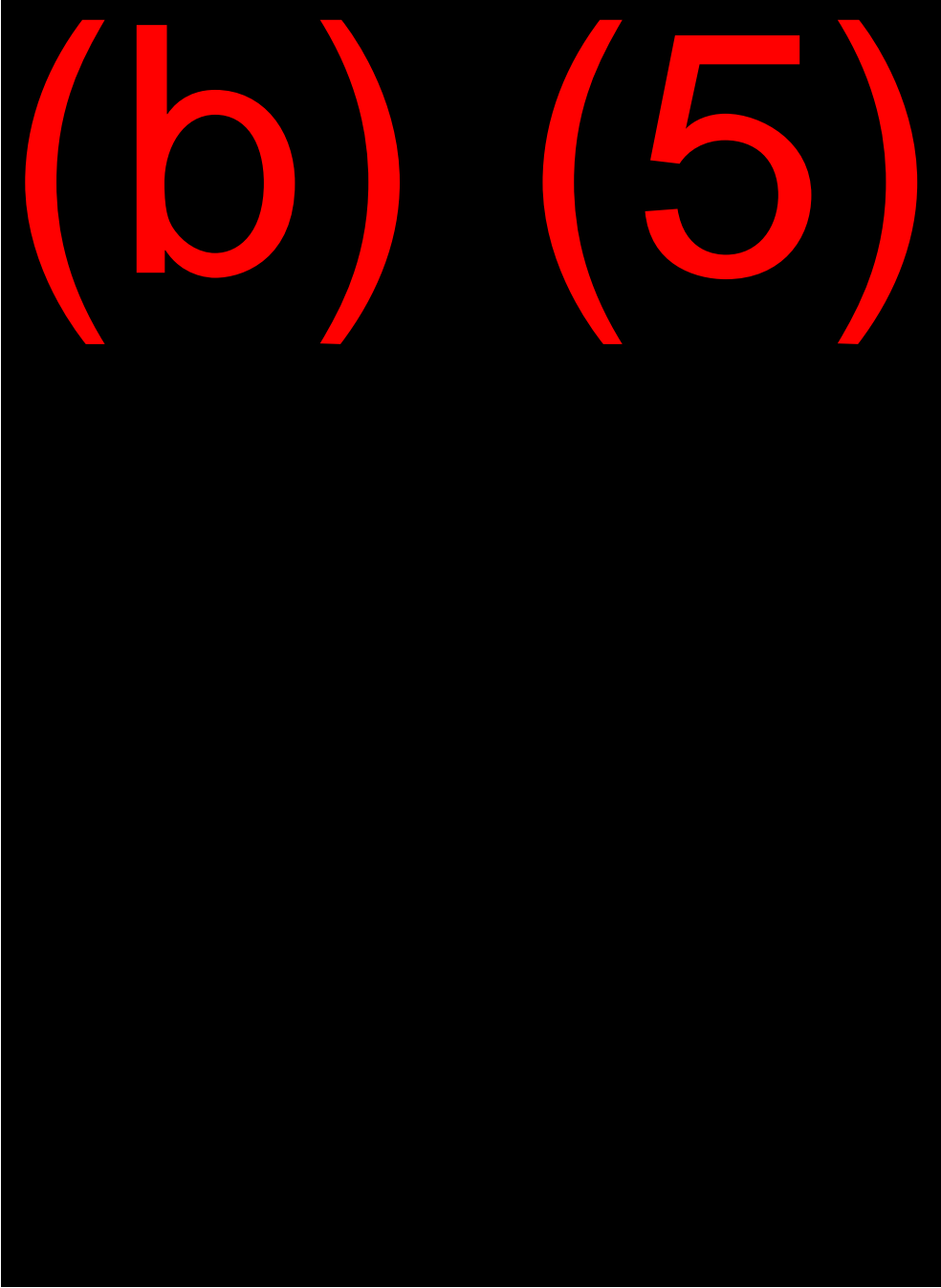
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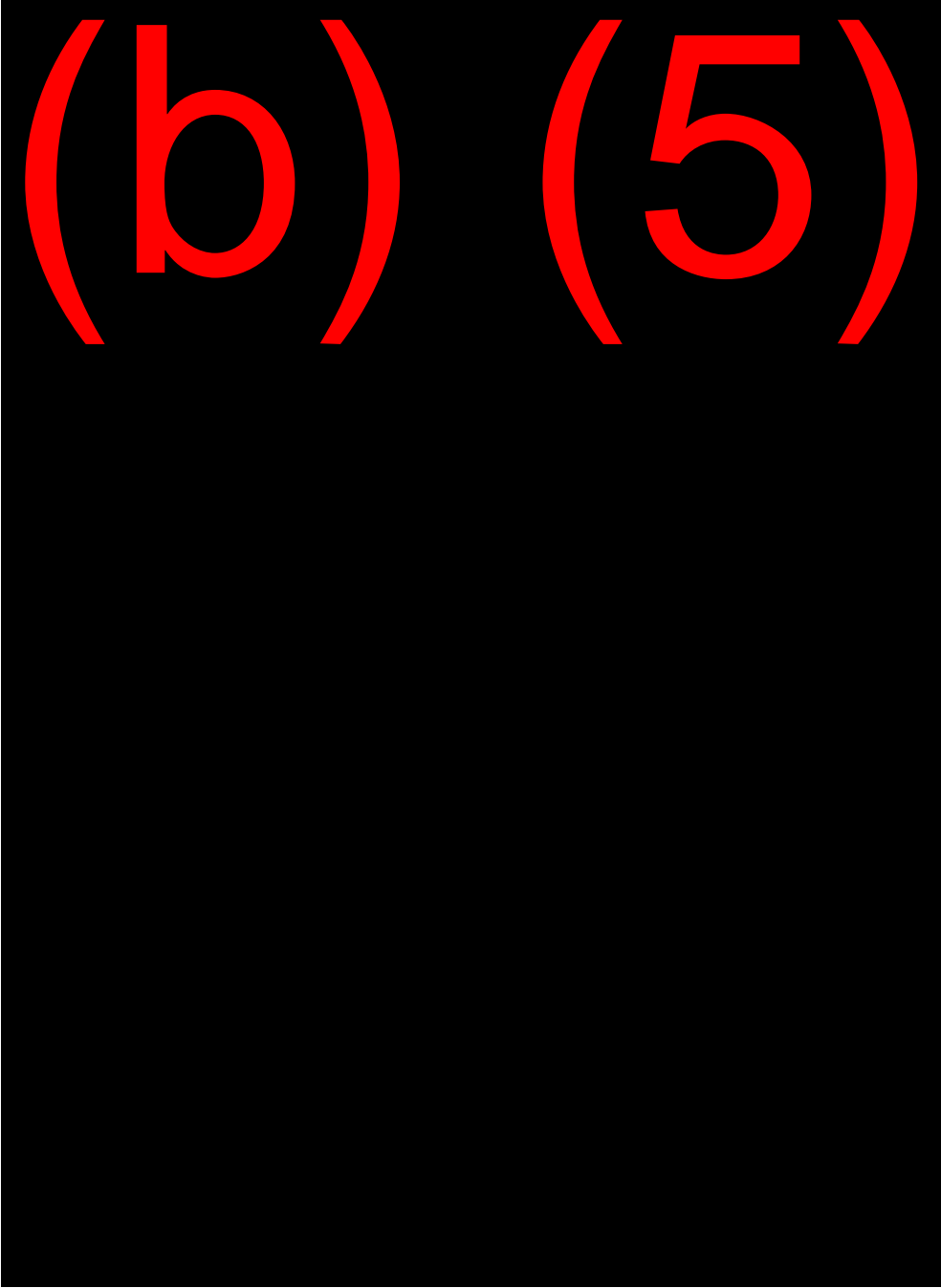
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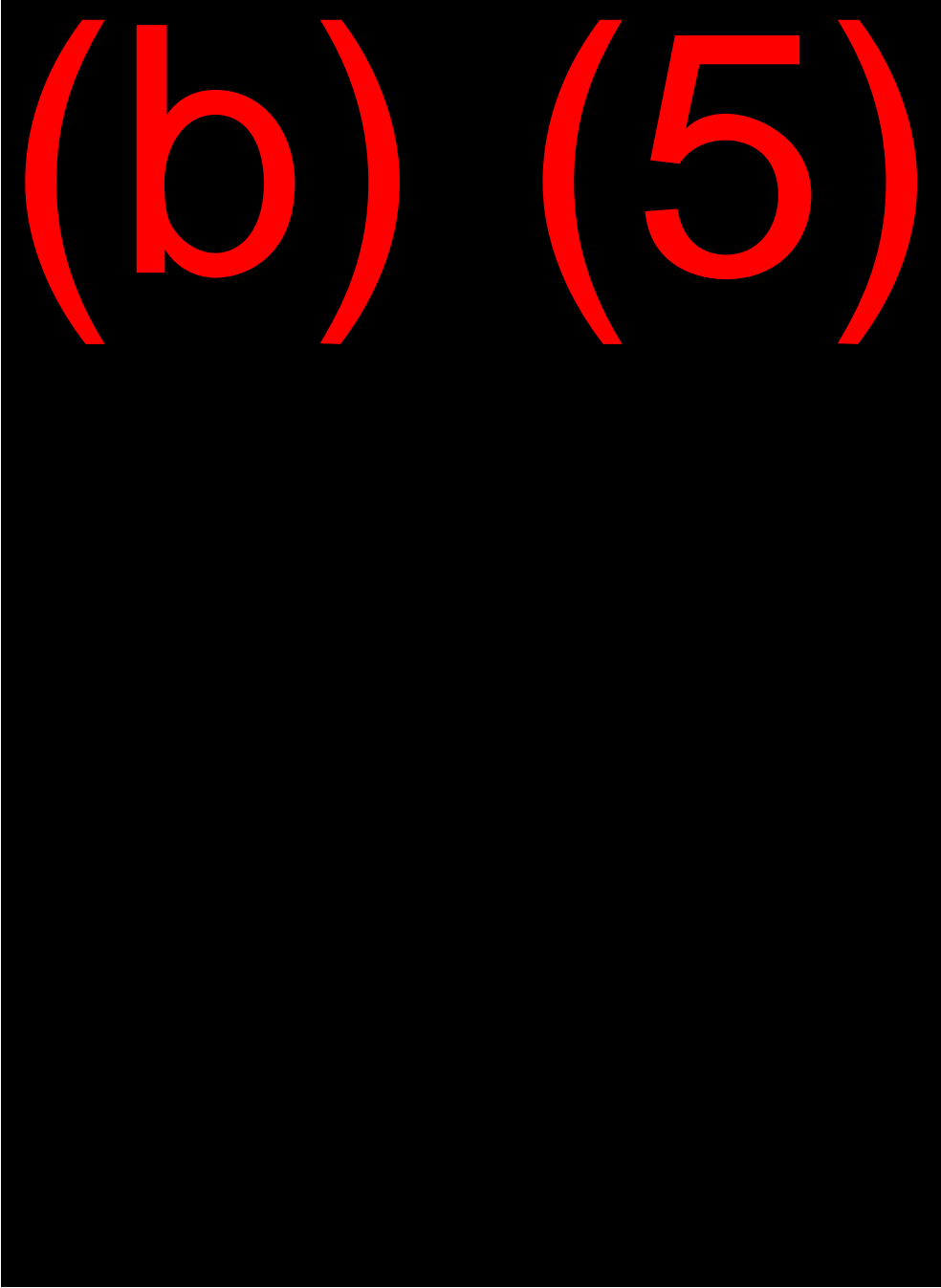
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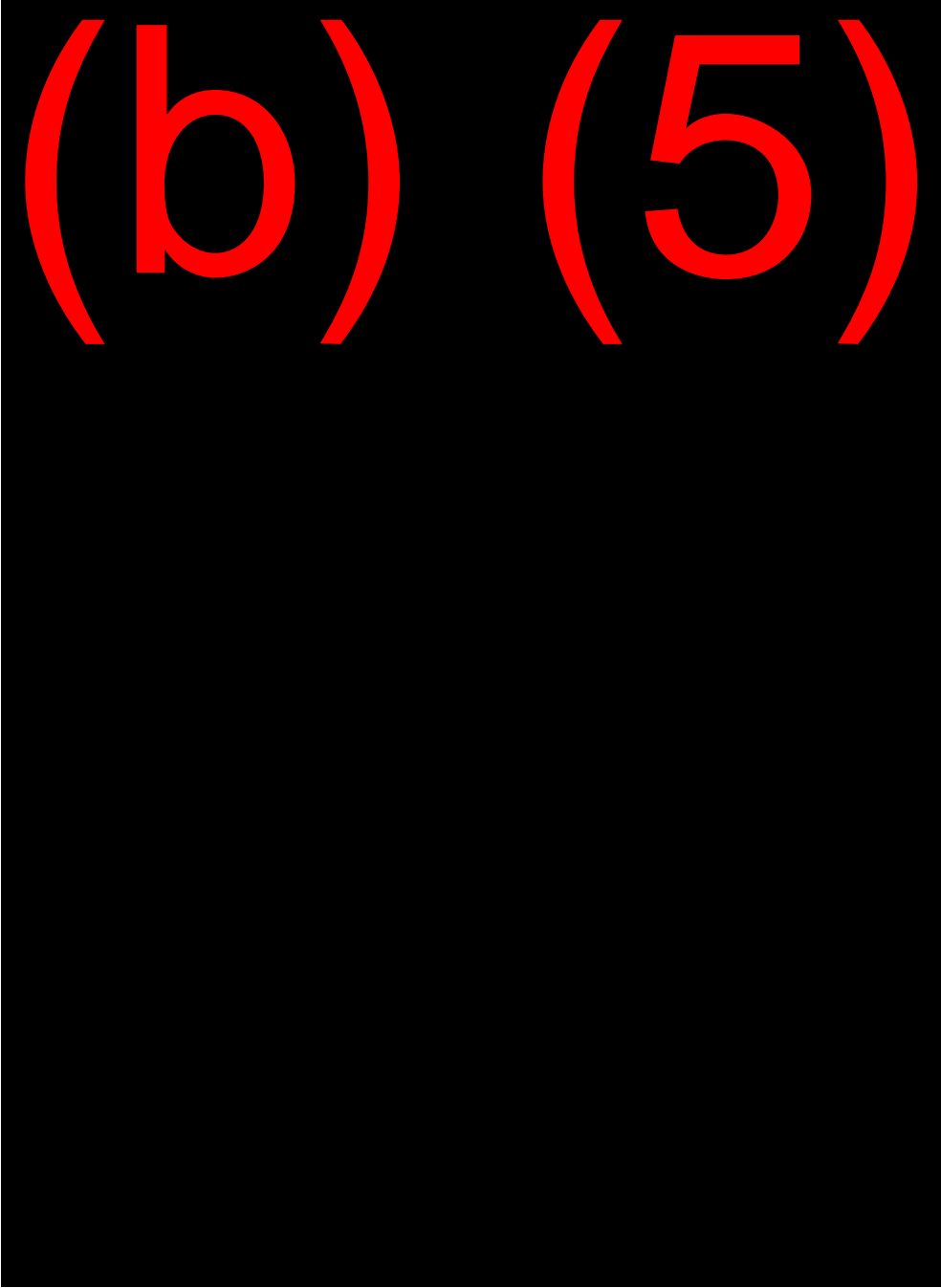




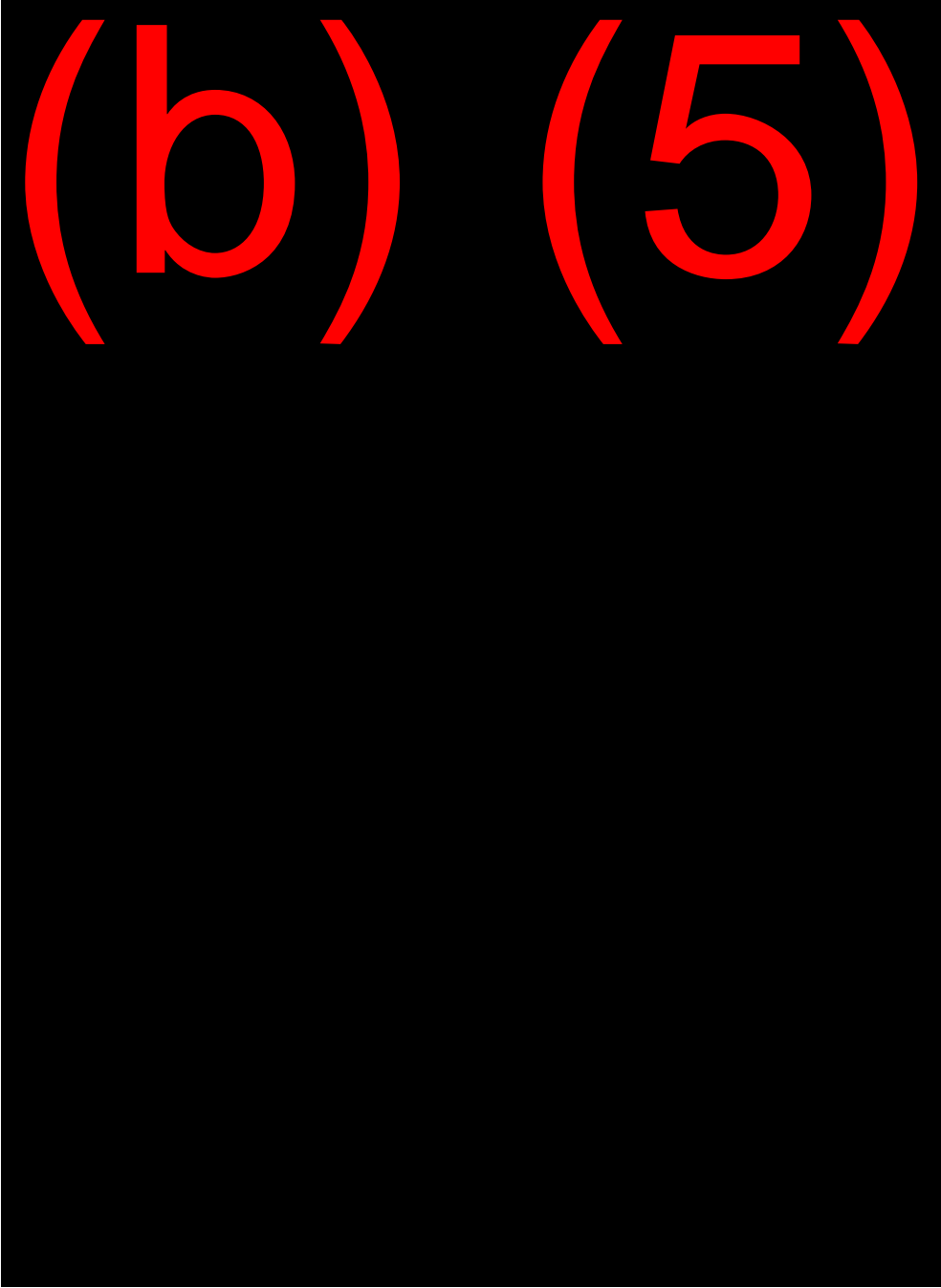
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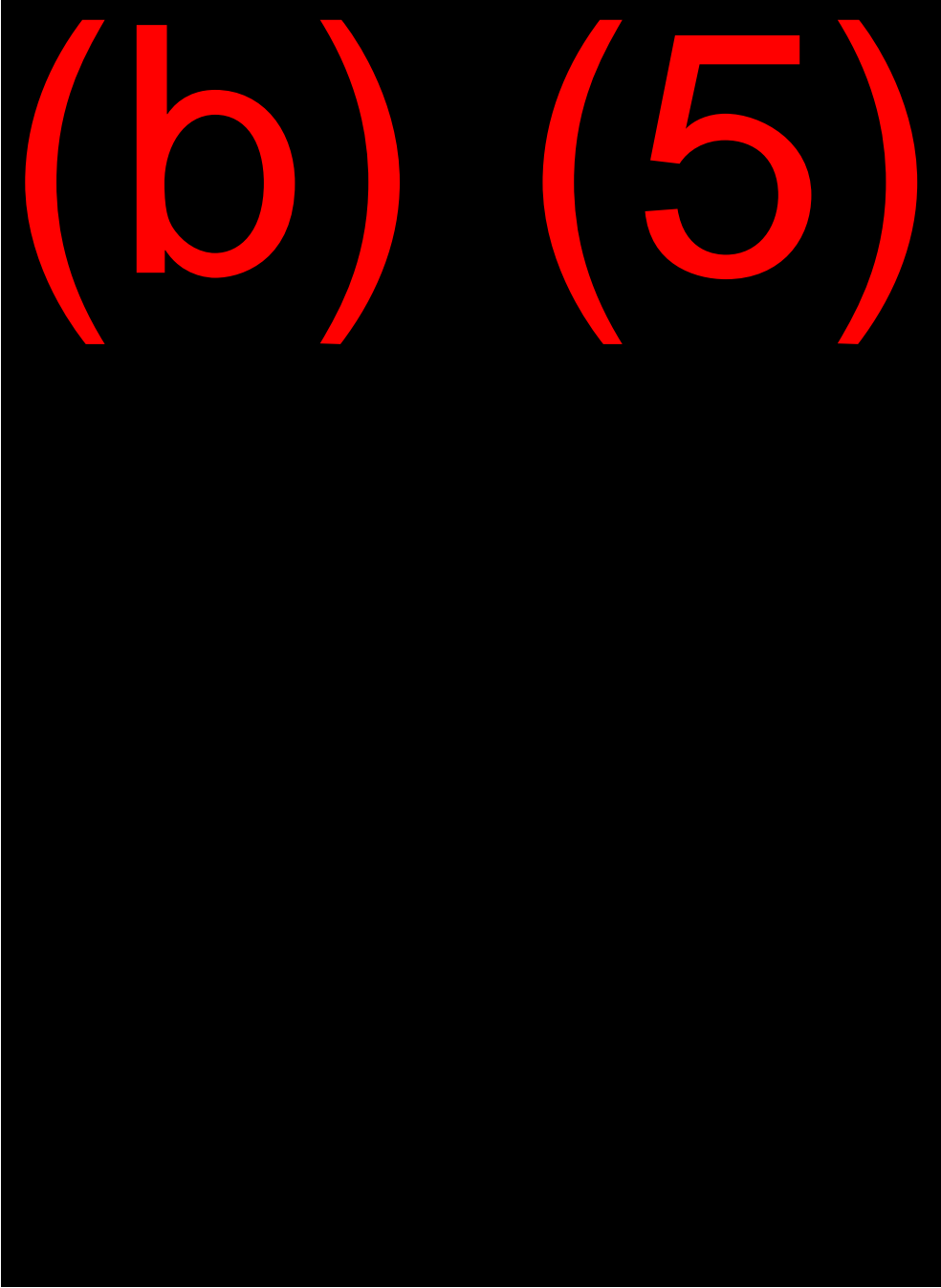
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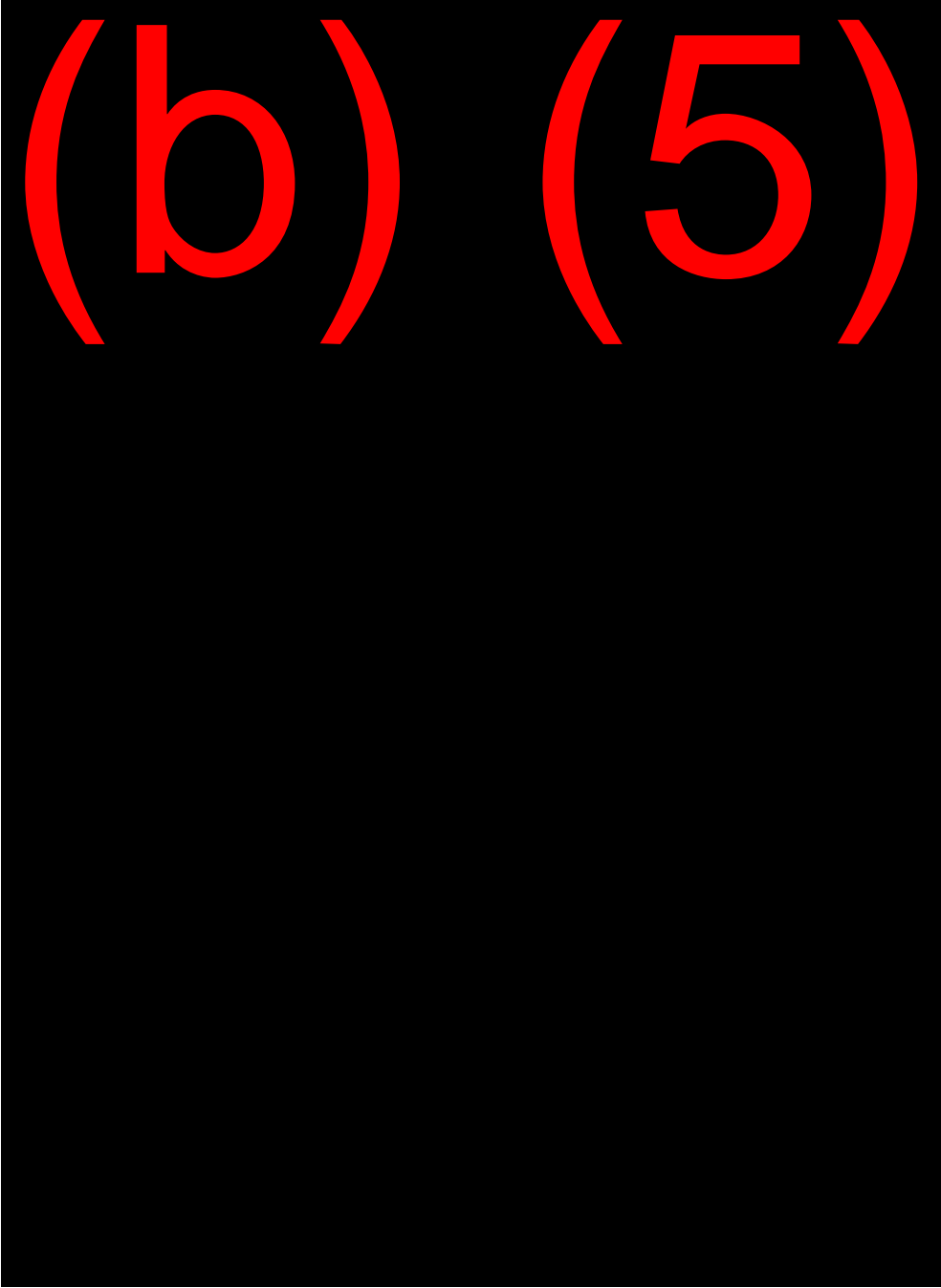
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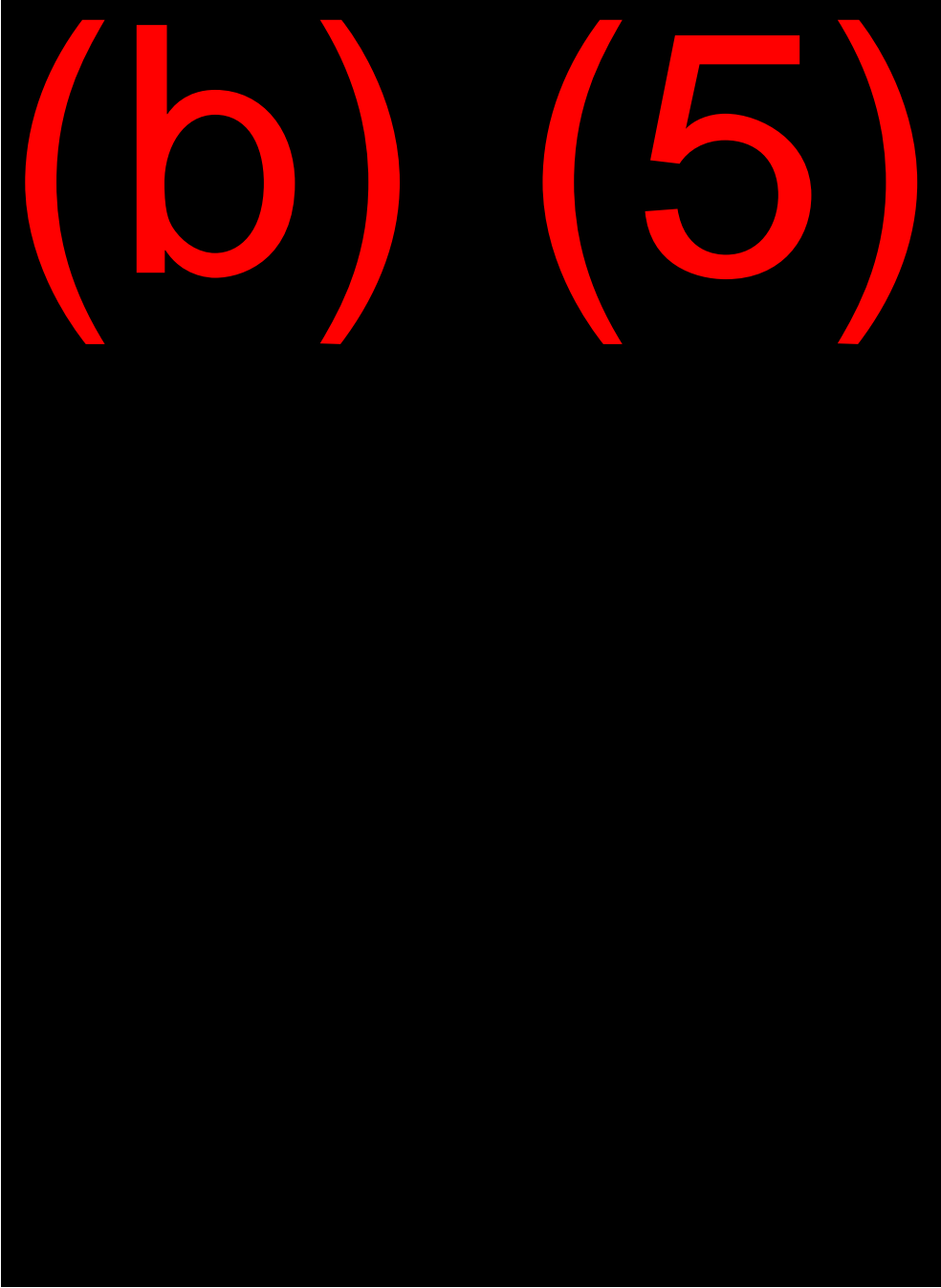
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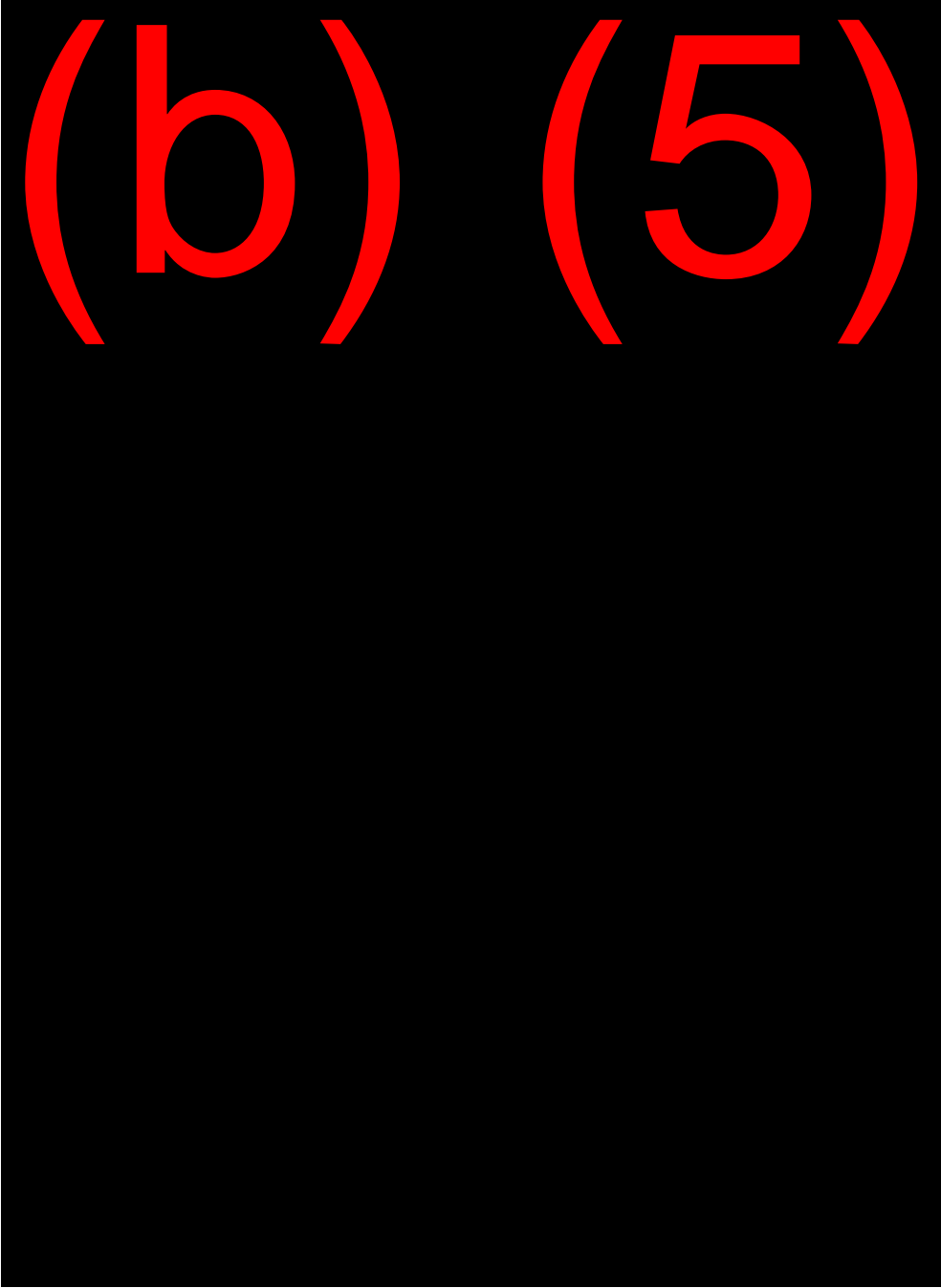
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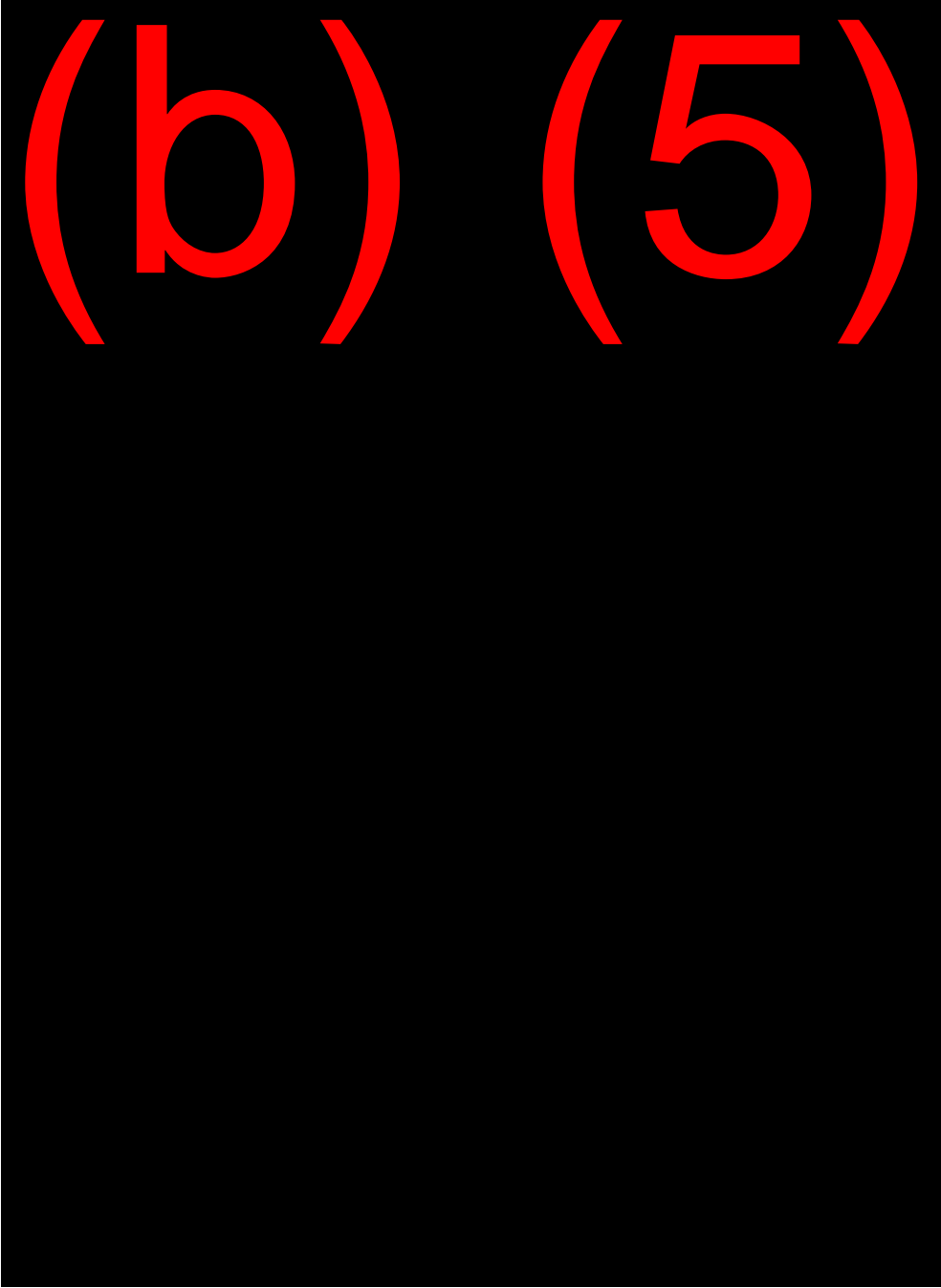
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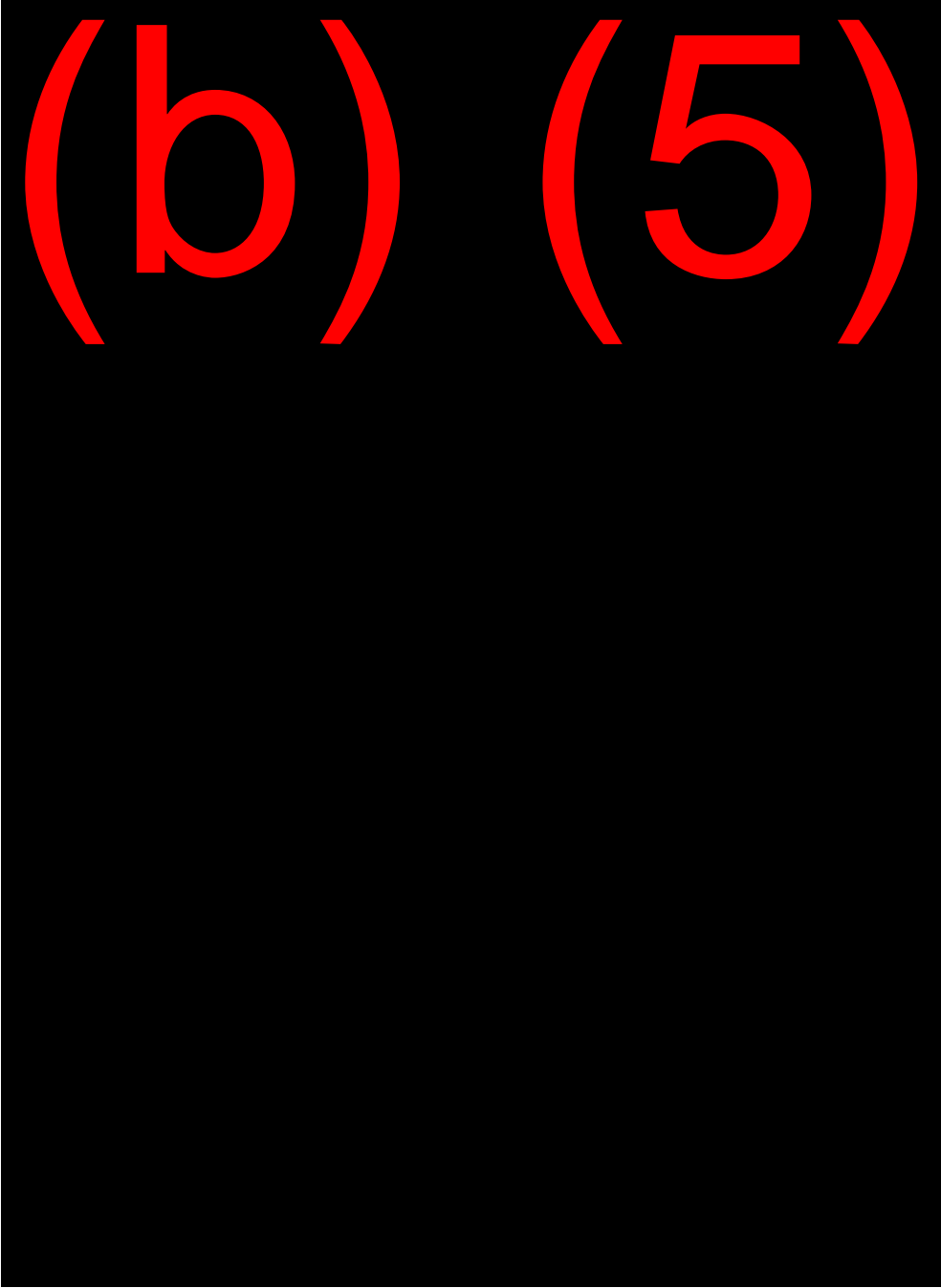
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M-

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From: Solicitor

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(b) (5)



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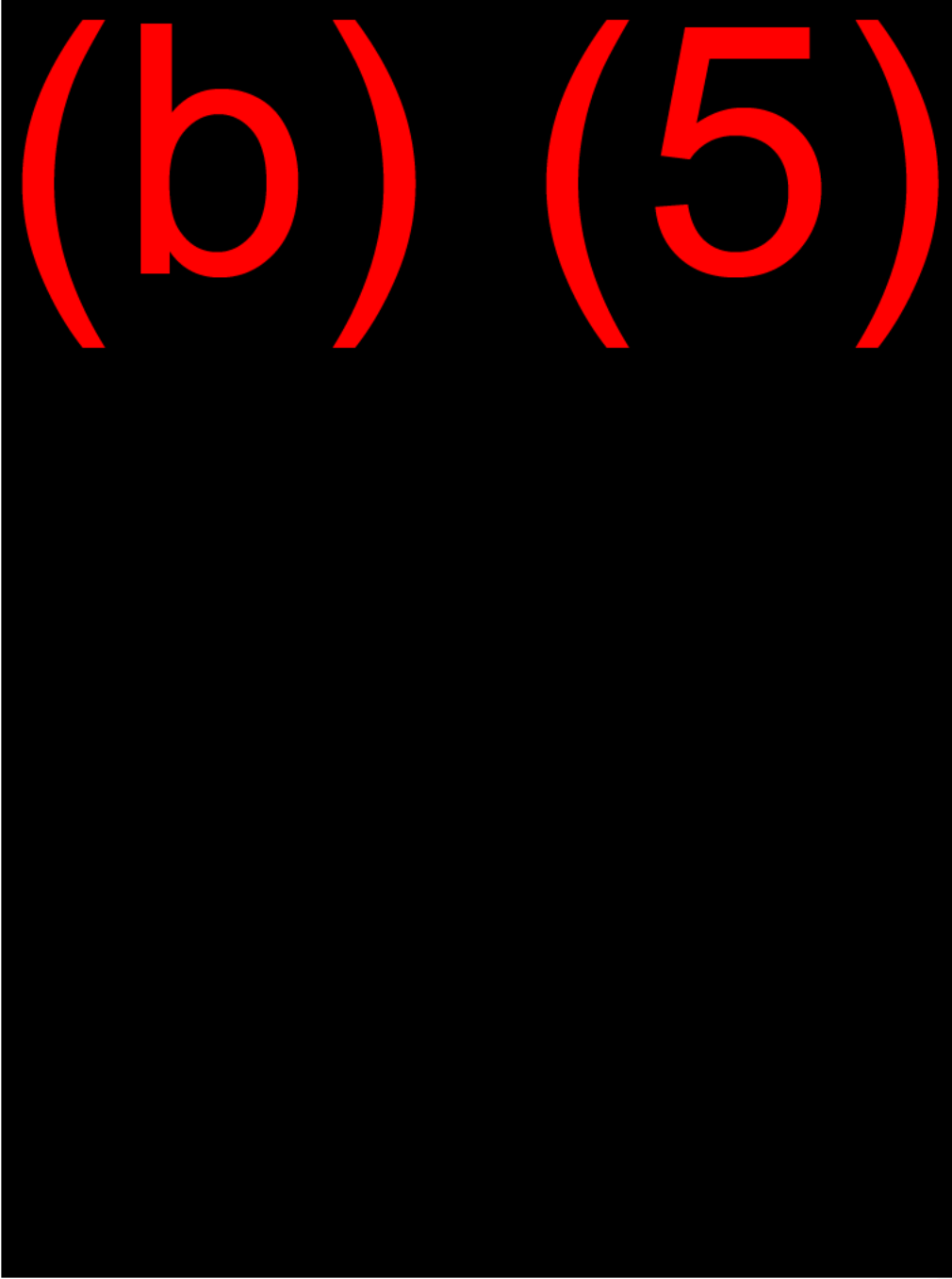
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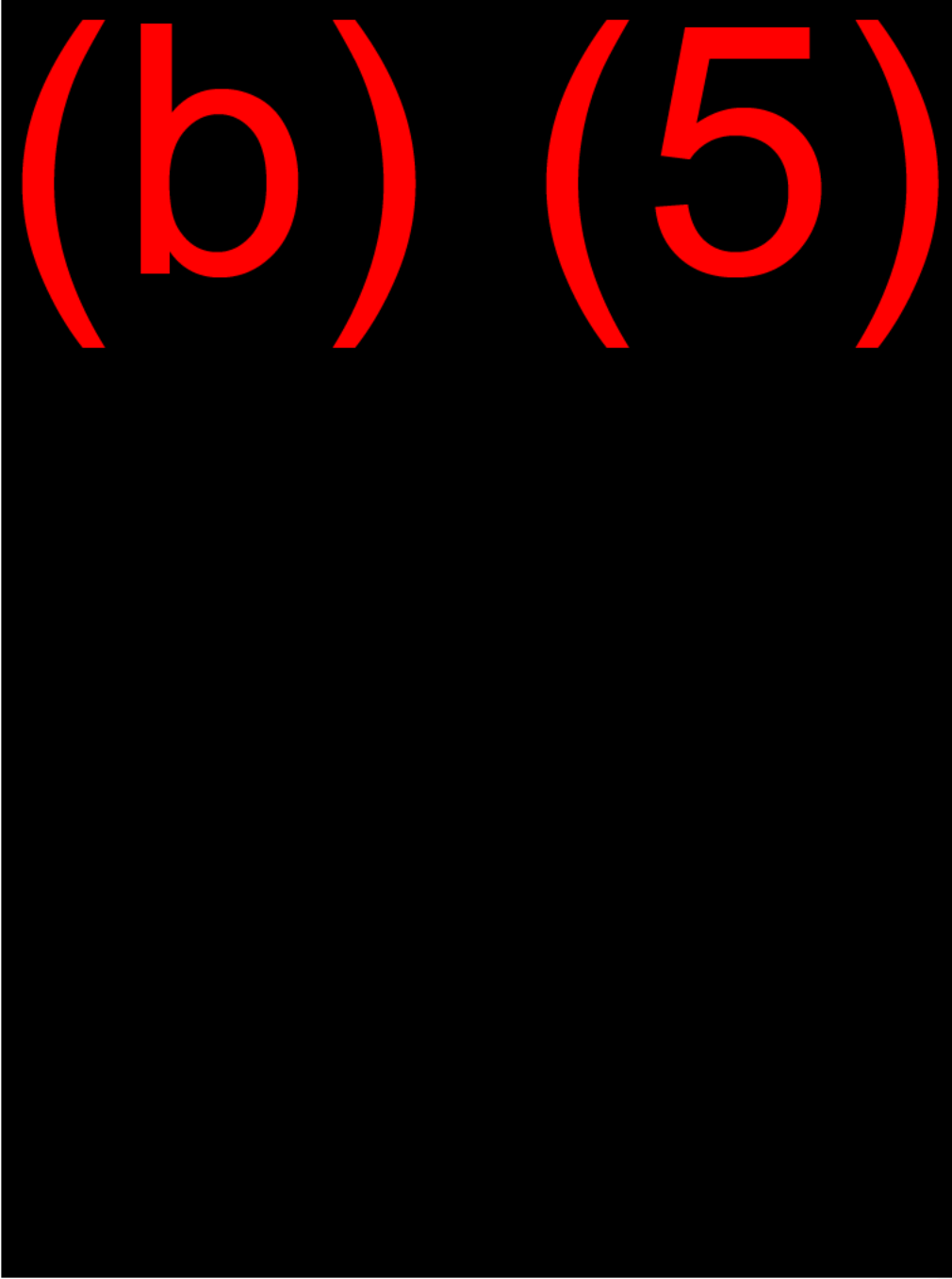
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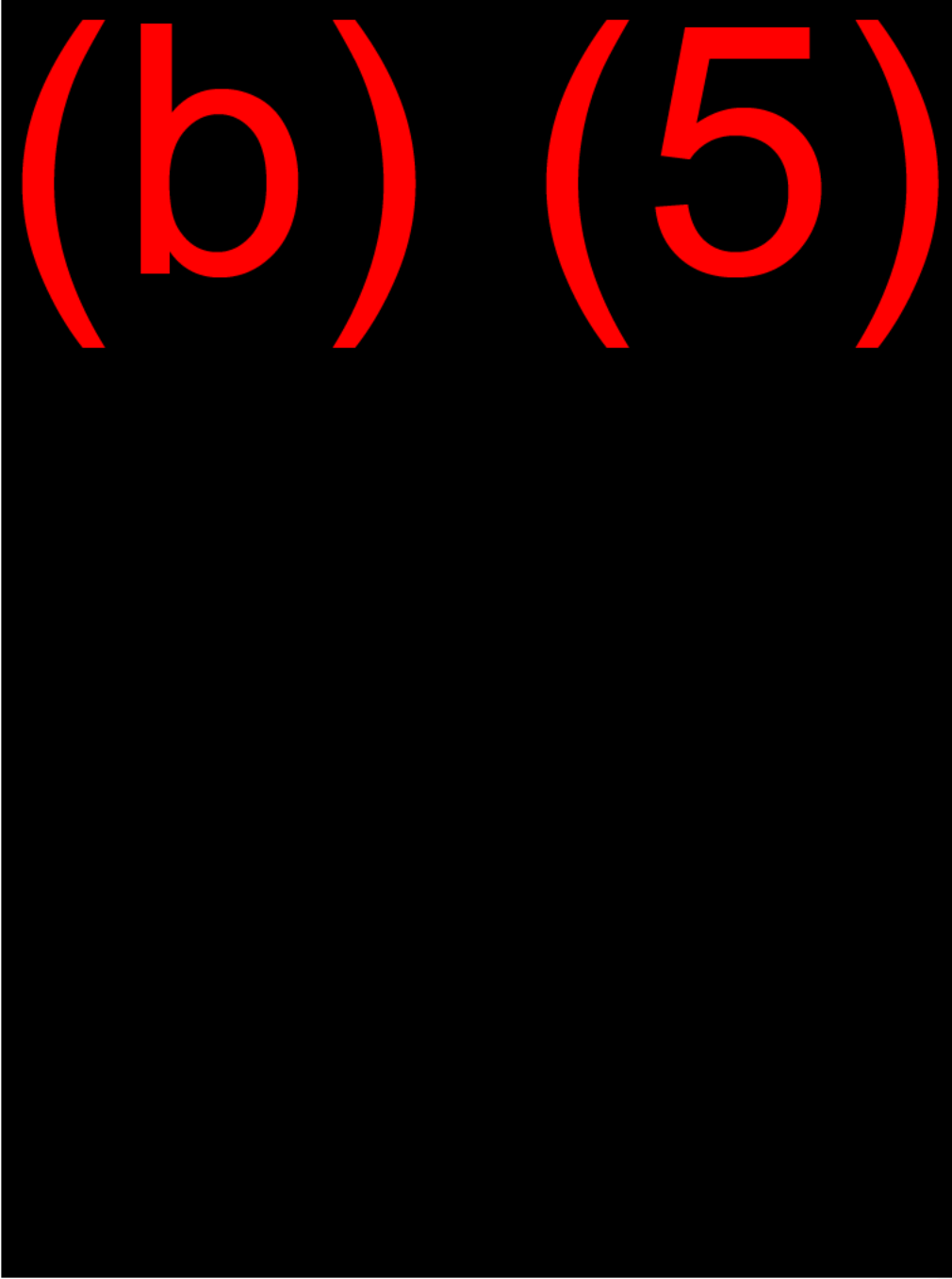
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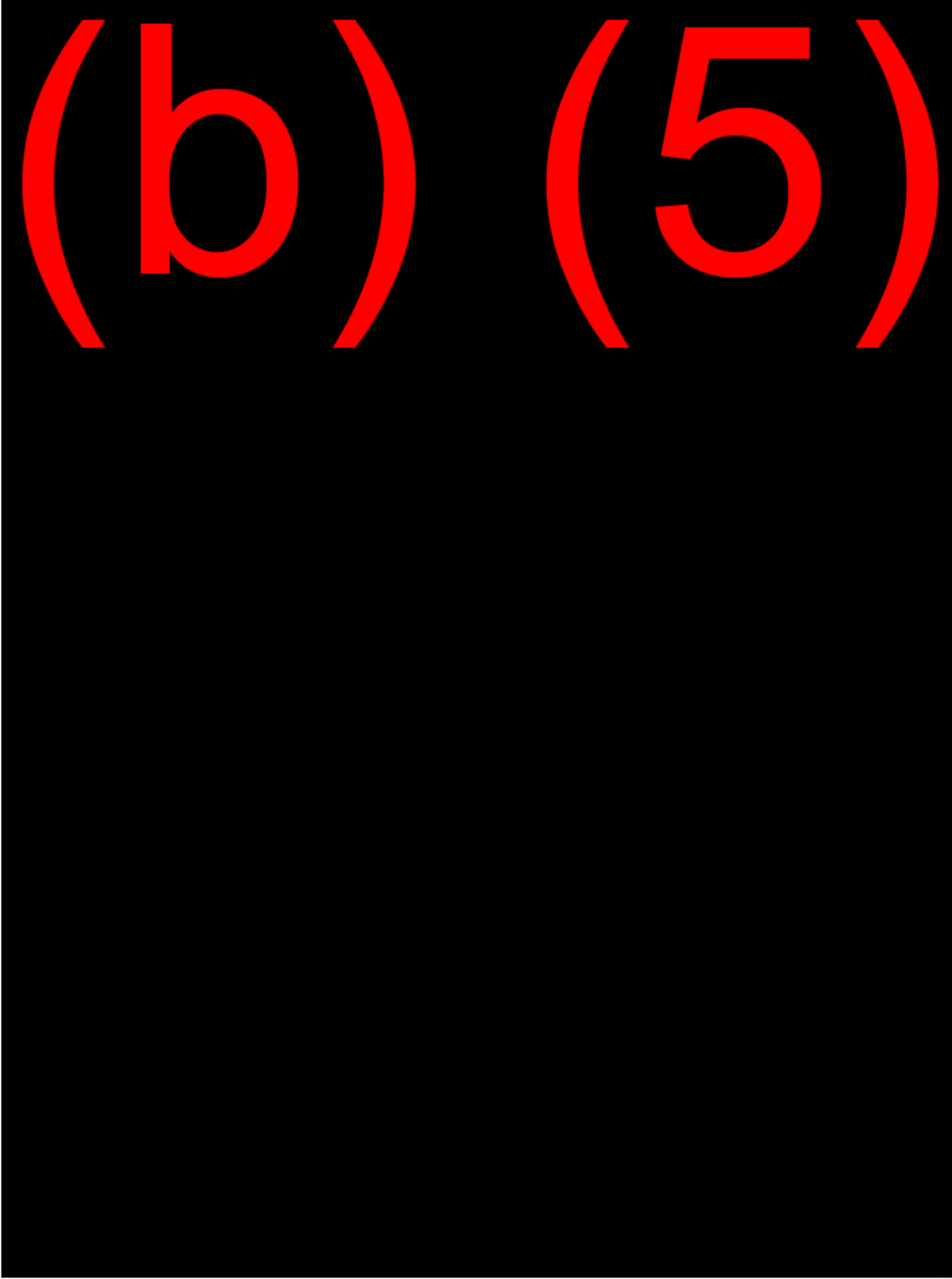
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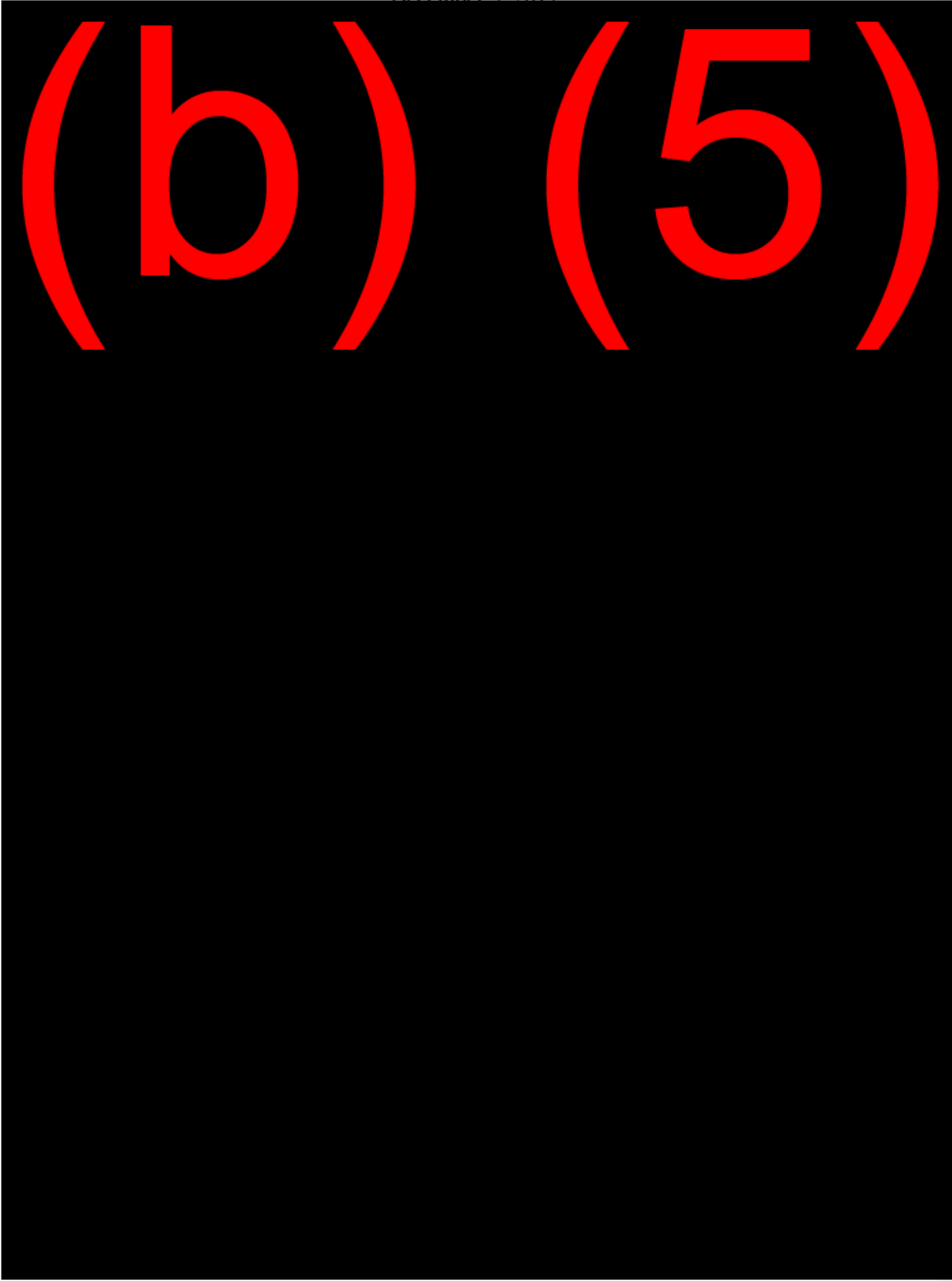
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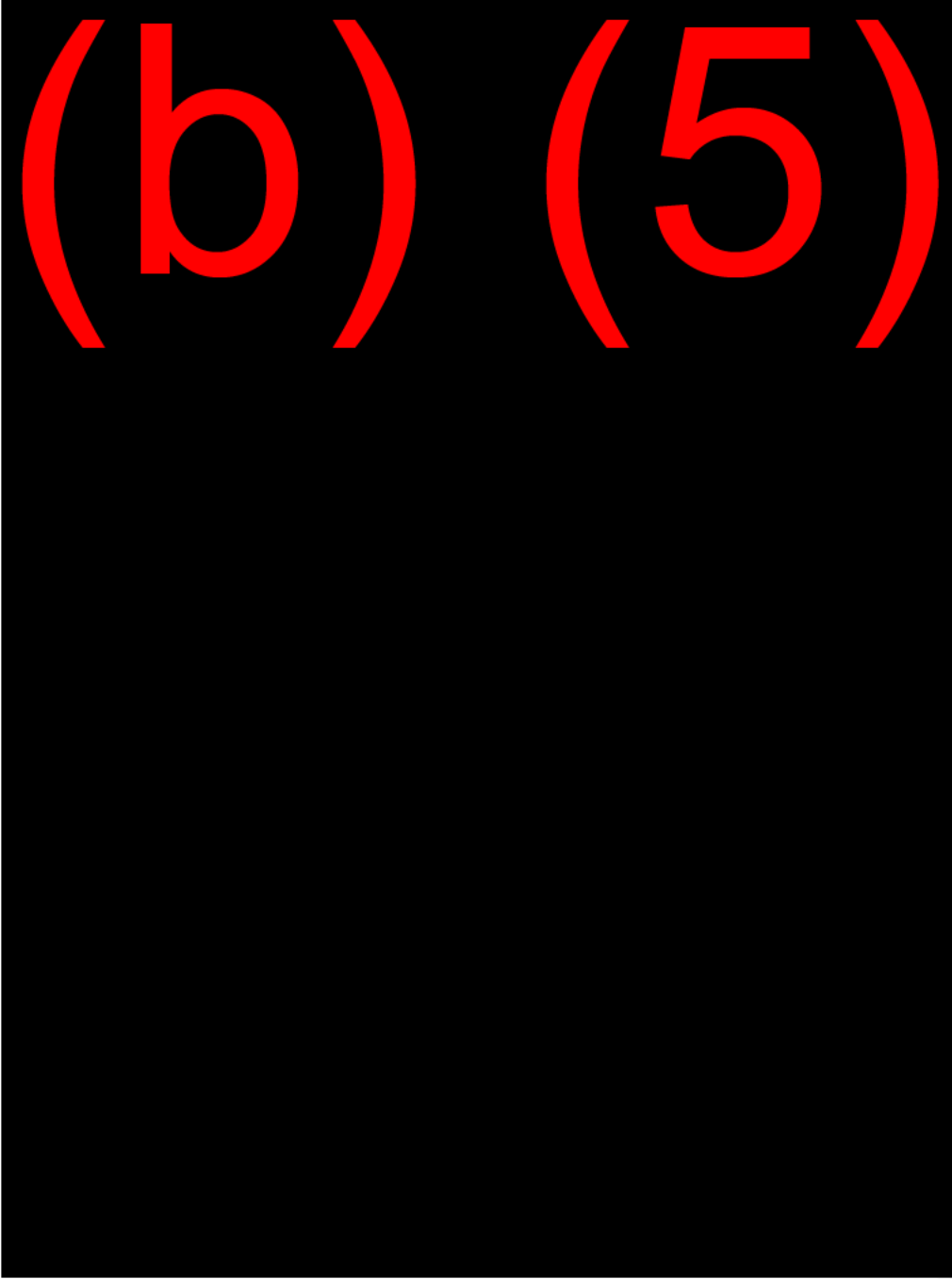


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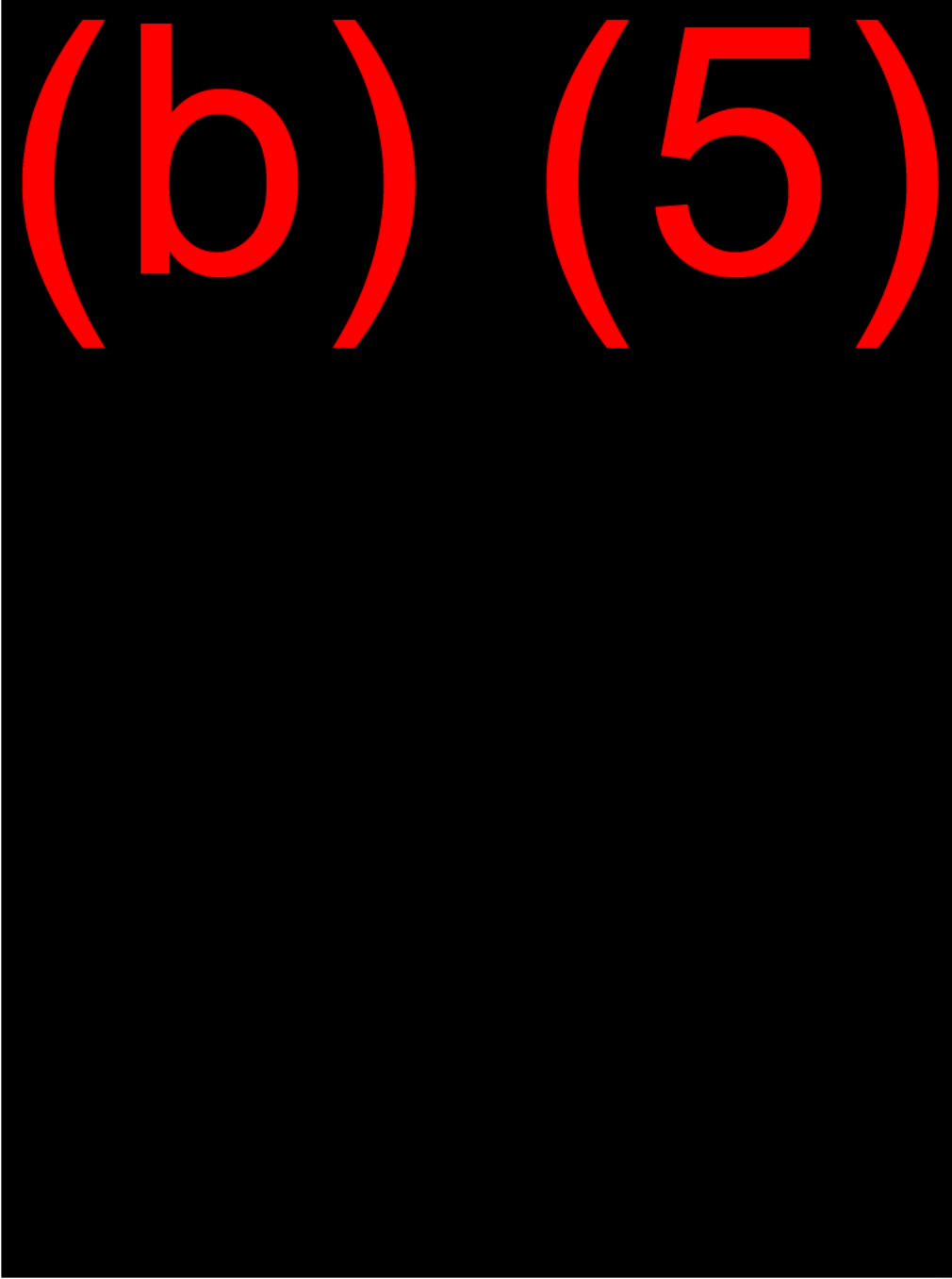




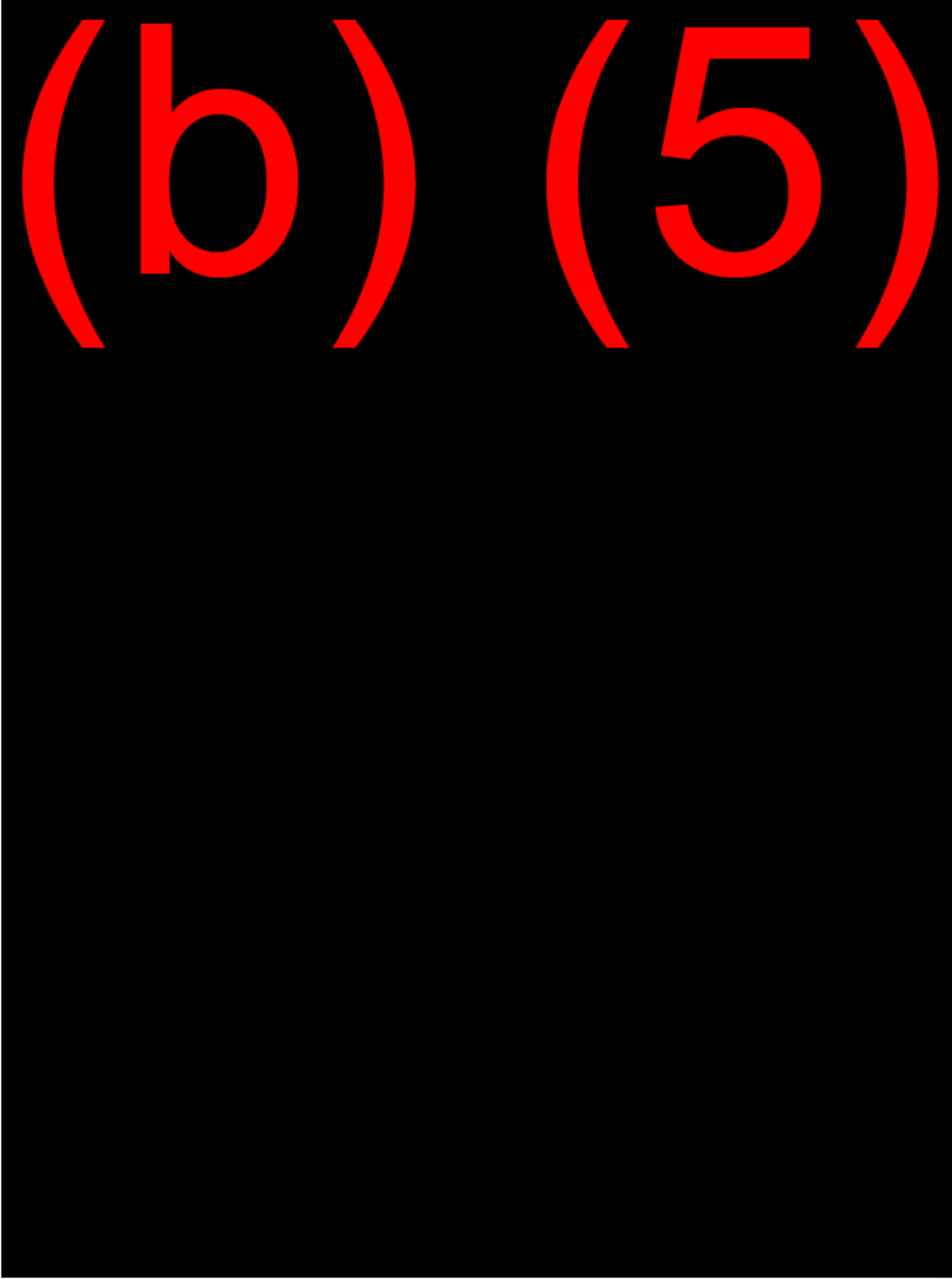
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December 6~~5~~, 2017

M-

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From: Solicitor

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(b) (5)



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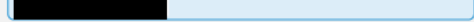
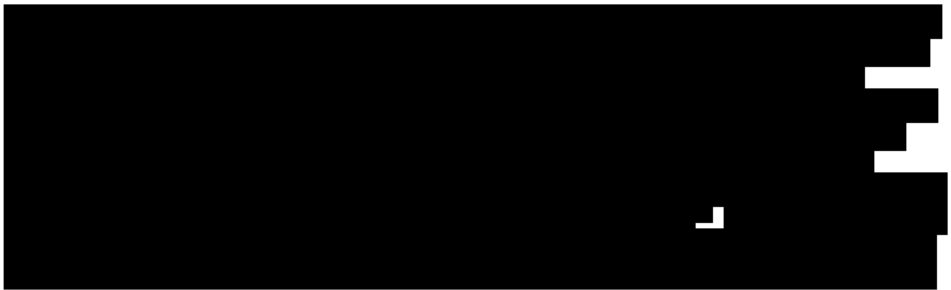
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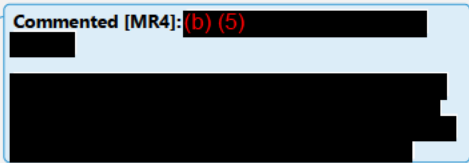
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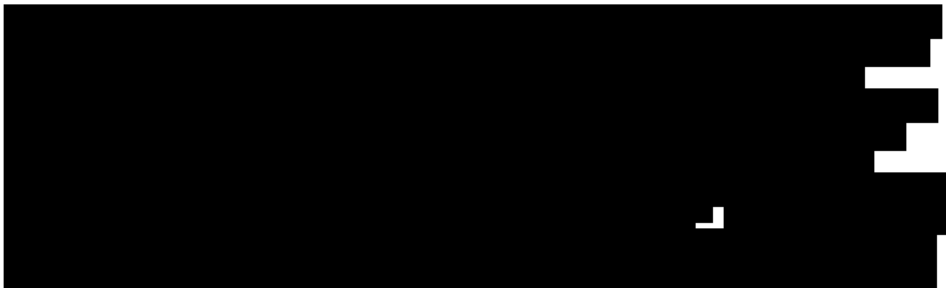
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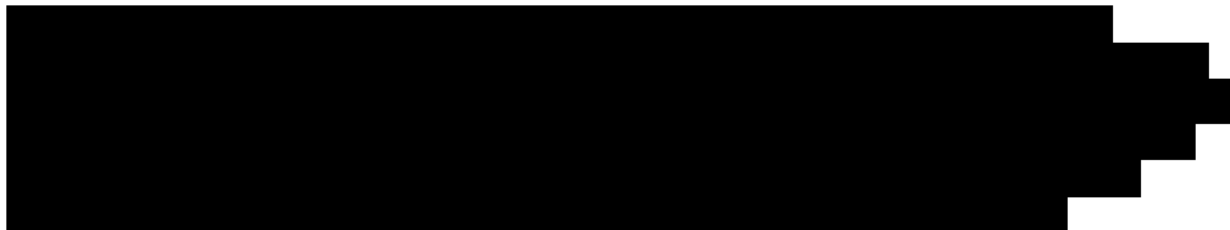
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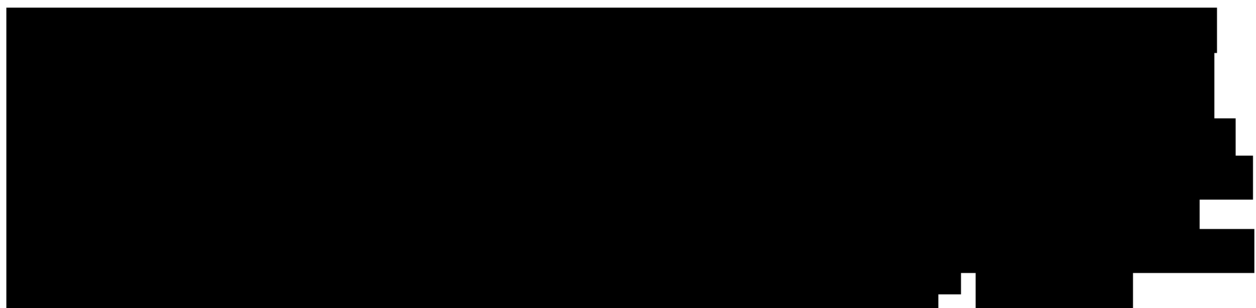

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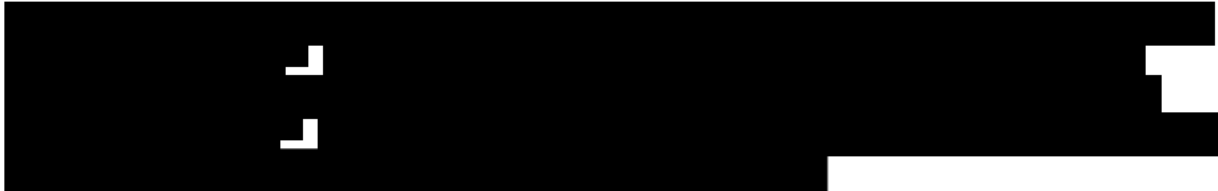
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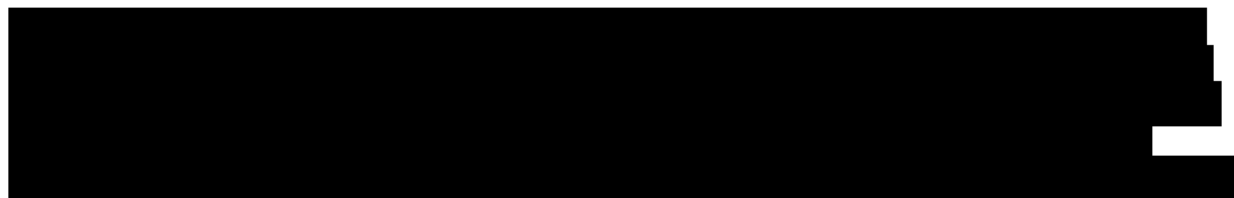
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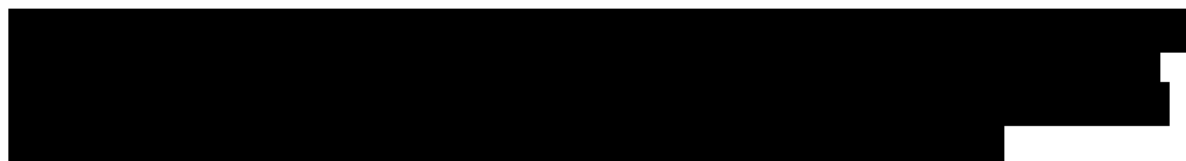
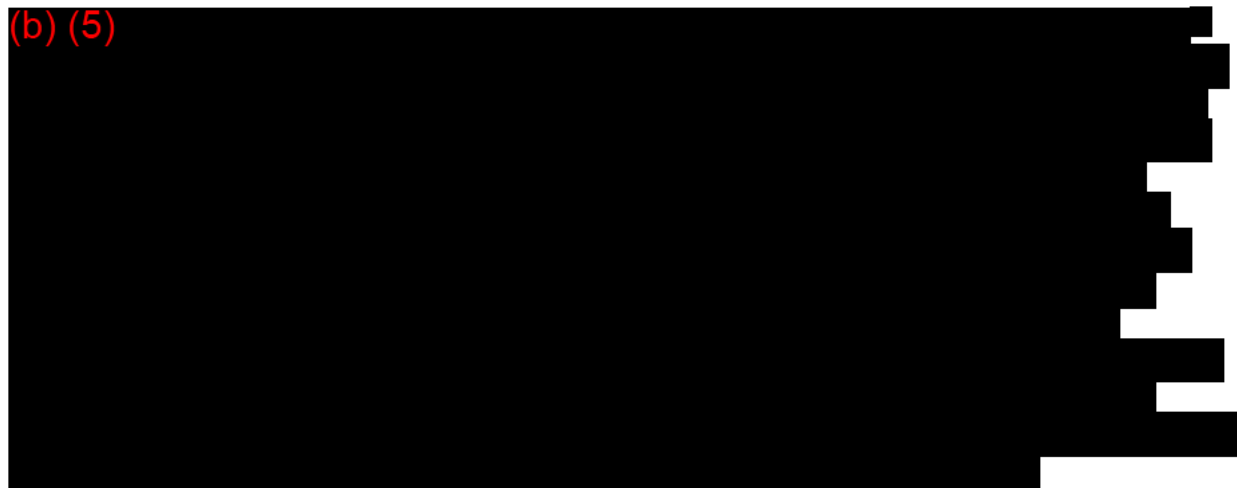
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To: Director, Bureau of Land Management

From: Solicitor

Subject: Reversal of M-37036, “Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-01353)”

(b) (5)





(b) (5)

[REDACTED]

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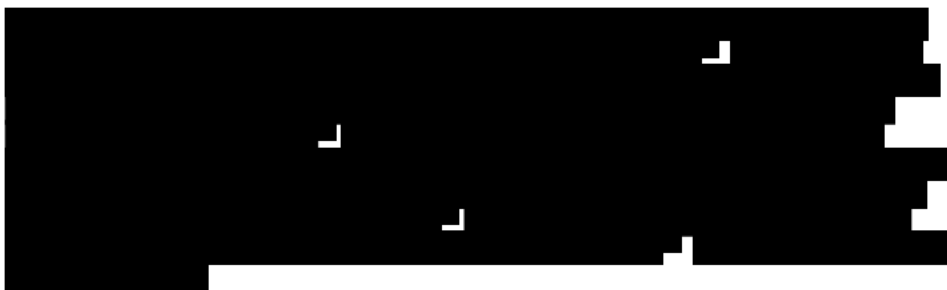
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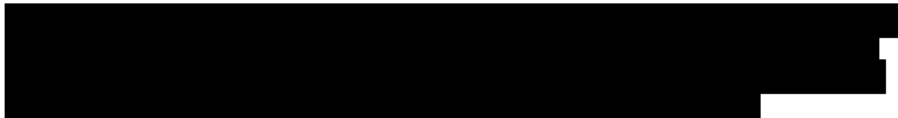
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DRAFT – Privileged and Confidential  
December 5, 2017

M-

Memorandum

To: Director, Bureau of Land Management

From: Solicitor

Subject: Reversal of M-37036, “Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-01353)”

(b) (5)



(b) (5)

[REDACTED]

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(b) (5)

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(b) (5)

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DRAFT – Privileged and Confidential  
December 5, 2017

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(b) (5)



(b) (5)

[REDACTED]

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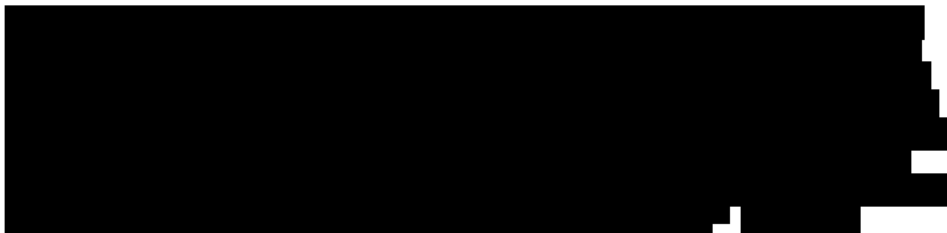


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(b) (5)



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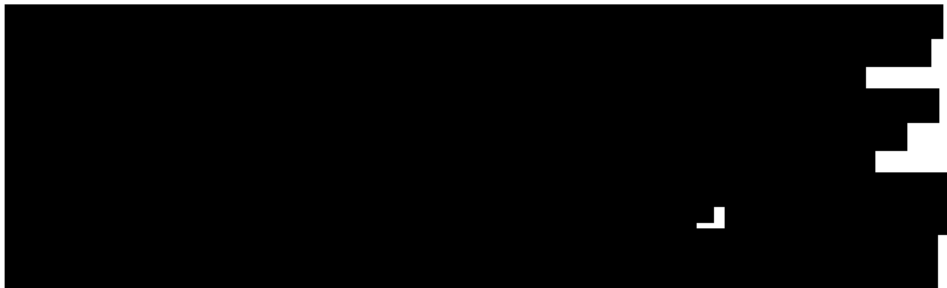
(b) (5)



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A horizontal rectangular area of the document is completely redacted with a solid black box. This block is located below the first large redacted area.



A horizontal rectangular area of the document is completely redacted with a solid black box. This block is located below the second redacted area.



A horizontal rectangular area of the document is completely redacted with a solid black box. This block is located at the bottom of the main content area.

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(b) (5)

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(b) (5)



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Commented [KSH5]:(b) (5)

[REDACTED]



DRAFT – Privileged and Confidential  
December 6~~5~~, 2017

M-

Memorandum

To: Director, Bureau of Land Management

From: Solicitor

Subject: Reversal of M-37036, “Twin Metals Minnesota Application to Renew Preference Right Leases (MNES-01352 and MNES-01353)”

(b) (5)



(b) (5)

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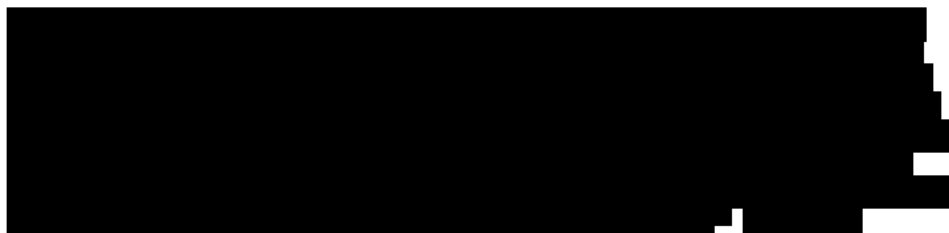
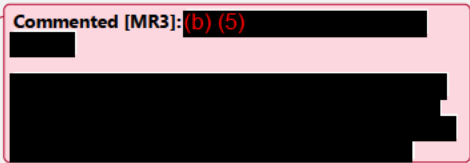
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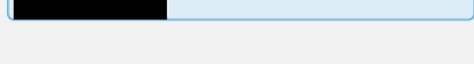
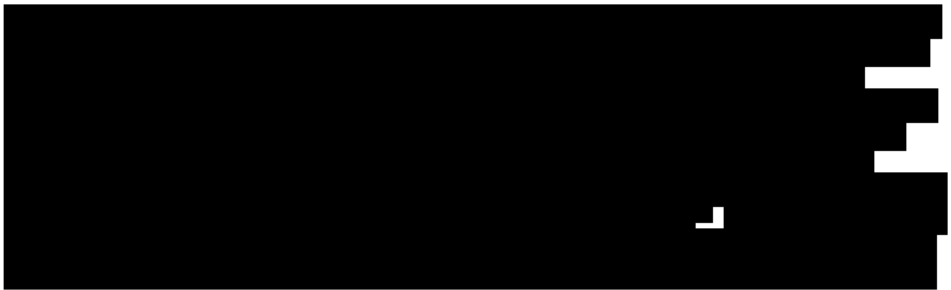
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A comment box with a light blue border. The text inside is partially redacted with a black box.

Commented [KSH6]: Steve notes (b) (5)

A comment box with a light blue border. The text inside is partially redacted with a black box.A rectangular block of text is completely redacted with a solid black box.A rectangular block of text is completely redacted with a solid black box.A rectangular block of text is completely redacted with a solid black box.

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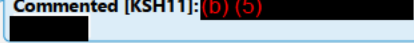


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(b) (5)

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
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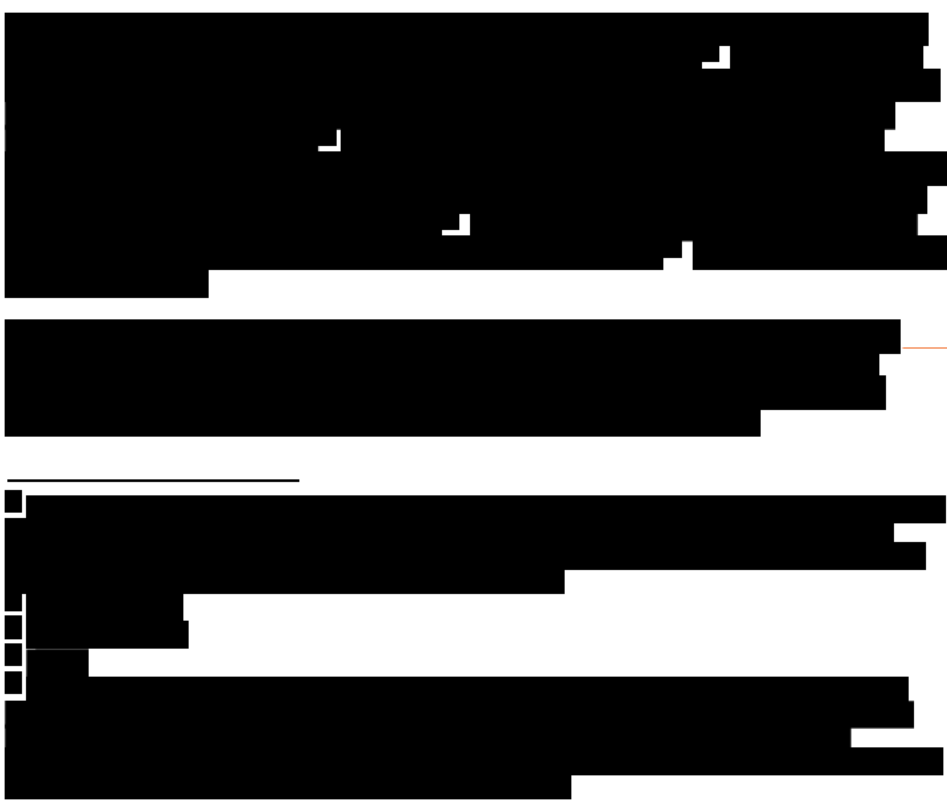
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